English Translation of Jāmi' At-Tirmidhī

Compiled by:

Imām Hāfiz Abū 'Eisā Mohammad Ibn 'Eisā At-Tirmidhī

Volume 3

From Hadith no.1205 to 1896

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Abu Khaliyl (USA)

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In the Name of Allâh,
the Most Gracious, the Most Merciful

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In the Name of Allāh,
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

12. The Chapters On Business From The Messenger of Allāh ﷺ

(المعجم ١٢) - أَبْوَابُ الْبُيُوعِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٠)

Chapter 1. What Has Been Related About Matters That Are Not Clear

(المعجم ١) - بَابُ مَا جَاءَ فِي تَرْكِ الشُّبُهَاتِ (التحفة ١)

1205. An-Nu'mān bin Bashīr narrated that the Messenger of Allāh ﷺ said: "The lawful is clear and the unlawful is clear, and between that are matters that are doubtful (not clear); many of the people do not know whether it is lawful or unlawful. So whoever leaves it to protect his religion and his honor, then he will be safe, and whoever falls into something from them, then he soon will have fallen into the unlawful. Just like if someone grazes (his animals) around a sanctuary, he would soon wind up in it. Indeed for every king is a sanctuary (pasture), and indeed Allāh's sanctuary is what He made unlawful." (***Ṣaḥīḥ***)

(Another chain of narration) from the Prophet ﷺ, and its meaning is similar.

Abū 'Eīsā said: This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, it has been reported by more than one from Ash-Sha'bī, from An-Nu'mān bin Bashīr.

١٢٠٥ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ مُجَالِدٍ، عَنِ الشَّعْبِيِّ، عَنِ النُّعْمَانِ بْنِ بَشِيرٍ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «الْحَلَالُ بَيِّنٌ وَالْحَرَامُ بَيِّنٌ، وَبَيْنَ ذٰلِكَ أُمُورٌ مُشْتَبِهَاتٌ، لَا يَدْرِي كَثِيرٌ مِنَ النَّاسِ أَمِنَ الْحَلَالِ هِيَ أَمْ مِنَ الْحَرَامِ، فَمَنْ تَرَكَهَا، اسْتِبْرَاءً لِدِينِهِ وعِرْضِهِ فَقَدْ سَلِمَ، وَمَنْ وَاقَعَ شَيْئًا مِنْهَا، يُوشِكُ أَنْ يُوَاقِعَ الْحَرَامَ، كَمَا أَنَّهُ مَنْ يَرْعَى حَوْلَ الْحِمَى، يُوشِكُ أَنْ يُوَاقِعَهُ، أَلَا وَإِنَّ لِكُلِّ مَلِكٍ حِمًى، أَلَا وَإِنَّ حِمَى اللهِ مَحَارِمُهُ».

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وَكِيعٌ عَنْ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ، عَنِ الشَّعْبِيِّ، عَنِ النُّعْمَانِ بْنِ بَشِيرٍ عَنِ النَّبِيِّ ﷺ، نَحْوَهُ بِمَعْنَاهُ.

قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وقَدْ رَوَاهُ غَيْرُ وَاحِدٍ، عَنِ الشَّعْبِيِّ، عَنِ النُّعْمَانِ بْنِ بَشِيرٍ.

تخريج: [**صحيح**] وأخرجه أحمد: ٤/ ٢٦٩ من حديث مجالد به، وأخرجه البخاري، ح: ٥٢ ومسلم، ح: ١٥٩٩ من حديث الشعبي به.

Comments:

Pastures are green and full of grass and there is temptation for the animals in it. It is duty of the shepherd to stop the animals from going into the pastures if the owner of the pasture has prohibited grazing the animals in it. If the animals enter the pasture the shepherd will have to bear the punishment as prescribed. Similarly Allāh has declared the unlawfulness of certain things, and whoever goes near them may be tempted by their attraction, and may knowingly or unknowingly commit the sin. So, it is recommended to avoid the doubtful things. It is also recommended to avoid the stimulating factors which lead to sinful actions.

Chapter 2. What Has Been Related About Consuming *Ribā*

(المعجم ٢) - بَابُ مَا جَاءَ فِي أَكْلِ الرِّبَا (التحفة ٢)

1206. Ibn Mas'ūd narrated: "The Messenger of Allāh ﷺ cursed the one who consumed *Ribā*, and the one who charged it, those who witnessed it, and the one who recorded it." (***Hasan***)

[He said:] There are narrations on this topic from 'Umar, 'Alī, Jābir [and Abū Juhaifah].

The *Hadīth* of 'Abdullāh (bin Mas'ūd) is a *Hasan Sahīh Hadīth*.

١٢٠٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ عَبْدِ اللهِ بْنِ مَسْعُودٍ، عَنِ ابْنِ مَسْعُودٍ، قَالَ: لَعَنَ رَسُولُ اللهِ ﷺ آكِلَ الرِّبَا وَمُوكِلَهُ وَشَاهِدَيْهِ وَكَاتِبَهُ.

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ وَعَلِيٍّ وَجَابِرٍ [وَأَبِي جُحَيْفَةَ].

حَدِيثُ عَبْدِ اللهِ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [**إسناده حسن**] وأخرجه أبو داود، البيوع، باب: في آكل الربا وموكله، ح:٣٣٣٣ وابن ماجه، ح:٢٢٧٧ من حديث سماك به وصححه ابن حبان، ح:١١١٢ وللحديث شواهد كثيرة جدًا * وفي الباب عن عمر [ابن ماجه، ح:٢٢٧٦ في أكل الربا] وعلي [النسائي، ح:٥١٠٦] وجابر [مسلم، ح:١٥٩٨] وأبي جحيفة [البخاري، ح:٢٠٨٦].

Comments:

This narration shows the severity of *Ribā* or usury (lending money on interest.) Dealing in *Ribā* is so abominable and such a grave sin that any kind of participation in it is a cause of curse from Allāh. Whoever consumes *Ribā*, whoever charges it, whoever witnesses it and whoever records it — all are participants in this crime and liable to punishment. So, it is very essential to avoid such dealings.

Chapter 3. What Has Been Related About The Severity Of Lying And False Speech

(المعجم ٣) - بَابُ مَا جَاءَ فِي التَّغْلِيظِ فِي الْكَذِبِ وَالزُّورِ وَنَحْوِهِ (التحفة ٣)

1207. Anas narrated that the

١٢٠٧ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الأَعْلَى

الصَّنْعَانِيُّ: حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ، عَنْ شُعْبَةَ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ أَبِي بَكْرِ بْنِ أَنَسٍ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ فِي الْكَبَائِرِ قَالَ: «الشِّرْكُ بِاللهِ، وَعُقُوقُ الْوَالِدَيْنِ، وَقَتْلُ النَّفْسِ، وَقَوْلُ الزُّورِ» [قَالَ:] وَفِي الْبَابِ عَنْ أَبِي بَكْرَةَ وَأَيْمَنَ بْنِ خُرَيْمٍ وَابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنَسٍ، حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

Prophet ﷺ said about the major sins: "Associating partners with Allāh, disobeying parents, killing oneself, and false speech." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Abū Bakrah, Ayman bin Khuraim, and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth*.

تخريج: متفق عليه، وأخرجه مسلم، الإيمان، باب الكبائر وأكبرها، ح:٨٨ من حديث خالد ابن الحارث والبخاري، ح:٢٦٥٣ من حديث شعبة به * وفي الباب عن أبي بكرة [البخاري، ح:٢٦٥٤ ومسلم، ح:٨٧] وأيمن بن خريم [يأتي:٢٢٩٩] وابن عمر [ابن ماجه، ح:٢٣٧٣].

Comments:

'Zūr' means all those things which are against the truth. Any thing or action which causes a problem for others or creates trouble is *Zūr*.

Chapter 4. What Has Been Related About Those Who Deal In Trade And What The Prophet ﷺ Called Them

(المعجم ٤) - بَابُ مَا جَاءَ فِي التُّجَّارِ وَتَسْمِيَةِ النَّبِيِّ ﷺ إِيَّاهُمْ (التحفة ٤)

١٢٠٨ - **حَدَّثَنَا** هَنَّادٌ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ عَاصِمٍ، عَنْ أَبِي وَائِلٍ، عَنْ قَيْسِ ابْنِ أَبِي غَرَزَةَ، قَالَ: خَرَجَ عَلَيْنَا رَسُولُ اللهِ ﷺ وَنَحْنُ نُسَمَّى السَّمَاسِرَةَ، فَقَالَ: «يَا مَعْشَرَ التُّجَّارِ إِنَّ الشَّيْطَانَ وَالإِثْمَ يَحْضُرَانِ الْبَيْعَ، فَشُوبُوا بَيْعَكُمْ بِالصَّدَقَةِ» قَالَ: وَفِي الْبَابِ عَنِ الْبَرَاءِ بْنِ عَازِبٍ وَرِفَاعَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ قَيْسِ بْنِ أَبِي غَرَزَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. رَوَاهُ مَنْصُورٌ وَالأَعْمَشُ وَحَبِيبُ بْنُ أَبِي ثَابِتٍ وَغَيْرُ وَاحِدٍ عَنْ أَبِي وَائِلٍ، عَنْ قَيْسِ بْنِ أَبِي غَرَزَةَ، وَلَا

1208. Abū Wā'il narrated that Qais bin Abī Gharazah said: "The Messenger of Allāh ﷺ came to us, and we were what was called 'brokers,' he said: 'O people of trade! Indeed the *Shaiṭān* and sin are present in the sale, so mix your sales with charity.'" (***Ṣaḥīḥ***)

He said: There are narrations on this topic from Al-Barā' bin 'Āzib and Rifā'ah.

[Abū 'Eīsā said:] The *Ḥadīth* of Qais bin Abī Gharazah (a narrator) is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

Manṣūr, Al-A'mash, Ḥabīb bin Abī Thābit and others reported it

نَعْرِفُ لِقَيْسٍ عَنِ النَّبِيِّ ﷺ غَيْرَ هذا.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الأَعْمَشِ، عَنْ شَقِيقِ بْنِ سَلَمَةَ، [وشَقِيقٌ هُوَ أَبُو وائِلٍ] عَنْ قَيْسِ بْنِ أَبِي غَرَزَةَ عَنِ النَّبِيِّ ﷺ، نَحْوَهُ بِمَعْنَاهُ وفِي الْبَابِ، عَنِ الْبَرَاءِ بْنِ عازِبٍ ورِفَاعَةَ.

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ صَحِيحٌ.

from Abū Wā'il, from Qais bin Abī Gharzah, from the Prophet ﷺ. We do not know of anything from the Prophet ﷺ narrated by Qais other than this.

(Another chain of narration) from Qais bin Abī Gharzah, from the Prophet ﷺ, and it is similar in meaning, and there are narrations on this topic from Al-Barā' bin 'Āzib and Rifā'ah.

[Abū 'Eīsā said:] This *Hadīth* is *Sahīh*.

تخريج: [صحيح] وأخرجه النسائي:٧/ ١٤، ١٥، ح:٣٨٢٩ من حديث عاصم بن أبي النجود وأبو داود، ح:٣٣٢٦ وابن ماجه، ح:٢١٤٥ من حديث شقيق أبي وائل به وصححه ابن الجارود، ح:٥٥٧ والحاكم:٢/ ٥ ووافقه الذهبي * وفي الباب عن البراء بن عازب [البيهقي في شعب الإيمان، ح:٤٨٤٨] ورفاعة [يأتي:١٢١٠] * ورواه أبو داود، ح:٣٣٢٦ من حديث أبي معاوية الضرير به، والأعمش صرح بالسماع عند الطحاوي في مشكل الآثار:٣/ ١٣، ١٤ وتابعه جماعة.

١٢٠٩ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا قَبِيصَةُ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي حَمْزَةَ، عَنِ الْحَسَنِ، عَنْ أَبِي سَعِيدٍ عَنِ النَّبِيِّ ﷺ قَالَ: «التَّاجِرُ الصَّدُوقُ الأَمِينُ، مَعَ النَّبِيِّينَ والصِّدِّيقِينَ والشُّهَداءِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ الثَّوْرِيِّ عَنْ أَبِي حَمْزَةَ. [وأَبُو حَمْزَةَ: اسْمُهُ عَبْدُ اللهِ بْنُ جَابِرٍ. وهُوَ شَيْخٌ بَصْرِيٌّ]: حَدَّثَنَا سُوَيْدُ بْنُ نَصْرٍ: حَدَّثَنَا [عَبْدُاللهِ] بْنُ الْمُبَارَكِ عَنْ سُفْيَانَ الثَّوْرِيِّ، عَنْ أَبِي حَمْزَةَ بِهٰذَا الإِسْنَادِ نَحْوَهُ.

1209. Abū Sa'eed narrated that the Prophet ﷺ said: "The truthful, trustworthy merchant is with the Prophets, the truthful, and the martyrs." ***(Da'īf)***

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*, we do not know it except from this route, a narration of Ath-Thawrī from Abū Hamzah. [Abū Hamzah's name is 'Abdullāh bin Jābir, and he is a Shaikh from Al-Basrah.]

(Another chain) from Abū Hamzah, with this chain of narration, and it is similar.

تخريج: [إسناده ضعيف] وأخرجه الدارمي: ٢/ ٢٤٧، ح:٢٥٤٢ عن قبيصة به وقال: "أبوحمزة هذا هو صاحب إبراهيم وهو ميمون الأعور" سفيان الثوري والحسن البصري عنعنا.

Comments:

Business or trading is an honesty testing profession. Usually in business it appears that if the rule of honesty is applied it will lead to a loss and if the norms of expediency according to the need of the time are adopted it will

lead to profit, but, the businessman who has trust in Allāh and deals with honesty and in accordance with the standards of Islam, then it is he, in reality, who is successful in the test. For this reason on the Day of Judgement he will be with the Prophets, the truthful, and the martyrs.

1210. Ismā'īl bin 'Ubaid bin Rifā'ah narrated from his father, from his grandfather, that he went with the Messenger of Allāh ﷺ to the *Muṣalla*, and he saw the people doing business so he said: 'O people of trade!' and they replied to the Messenger of Allāh ﷺ, turning their necks and their gazes towards him, and he said: 'Indeed the merchants will be resurrected on the Day of Judgement with the wicked, except the one who has *Taqwā* of Allāh, who behaves charitably and is truthful.'" (***Hasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. And they also say Ismā'īl bin 'Ubaidullāh bin Rifā'ah.

١٢١٠ - حَدَّثَنَا [أَبُو سَلَمَةَ] يَحْيَى بْنُ خَلَفٍ: حَدَّثَنَا بِشْرُ بْنُ الْمُفَضَّلِ عَنْ عَبْدِ اللهِ ابْنِ عُثْمَانَ بْنِ خُثَيْمٍ، عَنْ إِسْمَاعِيلَ بْنِ عُبَيْدِ ابْنِ رِفَاعَةَ، عَنْ أَبِيهِ، عَنْ جَدِّهِ: أَنَّهُ خَرَجَ مَعَ النَّبِيِّ ﷺ إِلَى الْمُصَلَّى، فَرَأَى النَّاسَ يَتَبَايَعُونَ فَقَالَ: «يَا مَعْشَرَ التُّجَّارِ» فَاسْتَجَابُوا لِرَسُولِ اللهِ ﷺ، ورَفَعُوا أَعْنَاقَهُمْ وَأَبْصَارَهُمْ إِلَيْهِ، فَقَالَ: «إِنَّ التُّجَّارَ يُبْعَثُونَ يَوْمَ الْقِيَامَةِ فُجَّارًا، إِلَّا مَنِ اتَّقَى اللهَ وَبَرَّ وصَدَقَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَيُقَالُ: إِسْمَاعِيلُ بْنُ عُبَيْدِ اللهِ بْنِ رِفَاعَةَ أَيْضًا.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، التجارات، باب التوقي في التجارة، ح:٢١٤٦ من حديث ابن خثيم به وصححه ابن حبان، ح:١٠٩٥ والحاكم:٢/٦ والذهبي.

Comments:

Most people's business depends on cheating, deceiving, and fraudulent tricks. So, the Prophet ﷺ said that such businessmen will be raised with the wicked offenders. Those who abide by the Laws of Allāh and fulfill their promises with the people, and are honest in their dealings, will get their reward as has been mentioned in the preceding narration.

Chapter 5. What Has Been Related About One Who Makes A False Oath About His Merchandise

(المعجم ٥) - بَابُ مَا جَاءَ فِيمَنْ حَلَفَ عَلَى سِلْعَةٍ كَاذِبًا (التحفة ٥)

1211. Abū Dharr narrated that the Prophet ﷺ said: "There are three whom Allāh will not look at on the Day of Judgement, nor will He purify them, and theirs is a painful punishment." We said: "Who are

١٢١١ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ قَالَ: أَنْبَأَنَا شُعْبَةُ قَالَ: أَخْبَرَنِي عَلِيُّ ابْنُ مُدْرِكٍ قَالَ: سَمِعْتُ أَبَا زُرْعَةَ بْنَ عَمْرِو بْنِ جَرِيرٍ، يُحَدِّثُ عَنْ خَرَشَةَ بْنِ الْحُرِّ، عَنْ أَبِي

they O Messenger of Allāh? For they have indeed failed and are lost!" He said: "The *Mannān*,[1] the one whose *Izār* hangs (below the ankels) and the one who promotes his merchandise with false oath." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Ibn Mas'ūd, Abū Hurairah, Abū Umāmah bin Tha'labah, 'Imrān bin Ḥuṣain, and Ma'qil bin Yasār.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Dharr is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

ذَرٍّ عَنِ النَّبِيِّ ﷺ قَالَ: «ثَلَاثَةٌ لَا يَنْظُرُ اللهُ إِلَيْهِمْ يَوْمَ الْقِيَامَةِ، وَلَا يُزَكِّيهِمْ وَلَهُمْ عَذَابٌ أَلِيمٌ»، قُلْنَا: مَنْ هُمْ يَا رَسُولَ اللهِ؟ فَقَدْ خَابُوا وَخَسِرُوا، فَقَالَ: «الْمَنَّانُ، وَالْمُسْبِلُ إِزَارَهُ، والْمُنَفِّقُ سِلْعَتَهُ بِالْحَلِفِ الْكَاذِبِ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وأَبِي هُرَيْرَةَ وأَبِي أُمَامَةَ بْنِ ثَعْلَبَةَ وعِمْرَانَ بْنِ حُصَيْنٍ ومَعْقِلِ بْنِ يَسَارٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي ذَرٍّ، حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الإيمان، باب بيان غلظ تحريم إسبال الإزار والمن بالعطية . . . إلخ، ح:١٠٦ من حديث شعبة به وهو في مسند أبي داود الطيالسي، ح:٤٦٧ * وفي الباب عن ابن مسعود [البخاري، ح:٢٣٥٦، ٢٣٥٧ ومسلم، ح:١٣٨] وأبي هريرة [يأتي مختصرًا، ح:١٥٩٥ والبخاري، ح:٢٦٧٢ ومسلم، ح:١٠٨] وأبي أمامة بن ثعلبة [مسلم، ح:١٣٧] وعمران ابن حصين [أبو داود، ح:٣٢٤٢] ومعقل بن يسار [أحمد:٥/ ٢٥ والنسائي في الكبرى].

Comments:

This narration points out that those who give something in charity and then boast and point out the favor conferred and remind of it time and again to the one they gave, those who keep their lower garment below the ankles, and those who promote their merchandise with false oaths, to these three types of people Allāh will not look at them with mercy on the Day of Judgement. Unfortunately today Muslims do not pay any heed to these.

Chapter 6. What Has Been Related About Doing Business Early

(المعجم ٦) - بَابُ مَا جَاءَ فِي التَّبْكِيرِ بِالتِّجَارَةِ (التحفة ٦)

1212. 'Umārah bin Ḥadīd narrated from Ṣakhr Al-Ghāmidī that the Messenger of Allāh ﷺ said: "O Allāh bless my *Ummah* in what they do early (in the day)." He said: "Whenever he ﷺ would

١٢١٢ - حَدَّثَنَا يَعْقُوبُ بْنُ إِبْرَاهِيمَ الدَّوْرَقِيُّ: حَدَّثنا هُشَيْمٌ: حَدَّثَنَا يَعْلَى بْنُ عَطَاءٍ عَنْ عُمَارَةَ بْنِ حَدِيدٍ، عَنْ صَخْرٍ الْغَامِدِيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «اللَّهُمَّ

[1] The one who does not give anything without obliging the one he gave it to. See *Tuhfat Al-Aḥwadhī*.

dispatch a military expedition or an army, he would send them in the first part of the day."

And Ṣakhr, a man who was a merchant, used to send his goods for trade during the beginning of the day, so he became rich, and his wealth increased.

[He said:] There are narrations on this topic from 'Alī, Buraidah, Ibn Mas'ūd, Anas, Ibn 'Umar, Ibn 'Abbās, and Jābir. (***Hasan***)

[Abū 'Eīsā said:] The *Hadīth* of Ṣakhr Al-Ghāmidī is a *Hasan Hadīth*. We do not know of a narration that Ṣakhr Al-Ghāmidī reported from the Prophet ﷺ other than this *Hadīth*. Sufyān Ath-Thawrī reported this *Hadith* from Shu'bah, from Ya'lā bin 'Aṭā'.

بَارِكْ لأُمَّتِي فِي بُكُورِهَا». قَالَ: وكانَ إِذَا بَعَثَ سَرِيَّةً أَوْ جَيْشًا، بَعَثَهُمْ أَوَّلَ النَّهَارِ، وَكَانَ صَخْرٌ رَجُلًا تَاجِرًا، وَكَانَ إِذَا بَعَثَ تِجَارَةً بَعَثَهُمْ أَوَّلَ النَّهَارِ، فَأَثْرَى وكَثُرَ مَالُهُ.

[قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وبُرَيْدَةَ وابْنِ مَسْعُودٍ وأَنَسٍ وابْنِ عُمَرَ وابْنِ عَبَّاسٍ وَجَابِرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ صَخْرٍ الْغَامِدِيِّ حَدِيثٌ حَسَنٌ. وَلَا نَعْرِفُ لِصَخْرٍ الْغَامِدِيِّ عَنِ النَّبِيِّ ﷺ غَيْرَ هٰذَا الْحَدِيثِ. وقَدْ رَوَى سُفْيَانُ الثَّوْرِيُّ، عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ، هذَا الْحَدِيثَ.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، التجارات، باب ما يرجى من البركة في البكور، ح:٢٢٣٦ وأبو داود، ح:٢٦٠٦ من حديث هشيم به وصححه ابن حبان (الإحسان):٤٧٣٤ * وفي الباب عن علي [عبدالله بن أحمد في زوائد المسند:١/١٥٣] وبريدة [العقيلي في الضعفاء:١/١٢٤] وابن مسعود [البخاري في التاريخ الكبير:٦/٢٩٠] والطبراني في الكبير:١٠/٢٥٧، ح: ١٠٤٩٠] وأنس [البزار (كشف الأستار):٢/٨٠، ح:١٢٤٩] وابن عمر [ابن ماجه، ح:٢٢٣٨] وابن عباس [الطبراني في الكبير:١٠/٣٤٨، ح:١٠٦٧٩] وجابر [الطبراني في الأوسط:١/٥٣٠، ح:١٠٠٠].

Comments:

This narration makes it clear that starting religious duties and worldly affairs early in the morning brings the blessings of Allāh in business and other worldly affairs. It means getting up early in the morning and starting the day is a secret of prosperity and well being.

Chapter 7. What Has Been Related About The Permission To Buy On Credit

(المعجم ٧) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي الشِّرَاءِ إِلَى أَجَلٍ (التحفة ٧)

1213. 'Āishah narrated: "The Messenger of Allāh ﷺ was wearing

١٢١٣ - حَدَّثَنَا أَبُو حَفْصٍ عَمْرُو بْنُ عَلِيٍّ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ: حَدَّثَنَا عُمَارَةُ

two thick *Qiṭrī*[1] garments on. When he would sit, he would sweat since they were so heavy for him. Some clothes arrived from Ash-Shām for so-and-so, the Jew. I said: 'Perhaps you could dispatch a request to him to buy some garments (on credit) from him until it is easy (to pay). So he sent a message to him and he said: 'I know what he wants. He only wants to take away my wealth' or 'my Dirham.' So the Messenger of Allāh ﷺ said: 'He has lied, indeed he knows that I am the one with the most *Taqwā* among them, and the best at fulfilling trusts among them.''' (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Ibn 'Abbās, Anas, and Asmā' bint Yazīd.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Āishah is a *Hasan Ṣaḥīh Gharīb Ḥadīth*. Shu'bah has also reported it from 'Umārah bin Abī Ḥafṣah.

He said: I heard Muḥammad bin Firās Al-Baṣrī saying: "I heard Abū Dāwūd Aṭ-Ṭayālisī saying: 'One day Shu'bah was asked about this *Ḥadīth*, and he said: "I will not narrate it to you (people) until you stand up before Ḥaramī bin 'Umārah [bin Ḥafṣah] to kiss his head." He said: 'And Ḥaramī was there among the people.'''

[Abū 'Eīsā said:] meaning: "approving of this *Ḥadīth*."

ابْنُ أَبِي حَفْصَةَ: حَدَّثَنَا عِكْرِمَةُ عَنْ عَائِشَةَ، قَالَتْ: كَانَ عَلَى رَسُولِ اللهِ ﷺ ثَوْبَانِ قِطْرِيَّانِ غَلِيظَانِ، فَكَانَ إِذَا قَعَدَ فَعَرِقَ، ثَقُلَا عَلَيْهِ. فَقَدِمَ بَزٌّ مِنَ الشَّامِ لِفُلَانٍ الْيَهُودِيِّ. فَقُلْتُ: لَوْ بَعَثْتَ إِلَيْهِ فَاشْتَرَيْتَ مِنْهُ ثَوْبَيْنِ إِلَى الْمَيْسَرَةِ، فَأَرْسَلَ إِلَيْهِ فَقَالَ: قَدْ عَلِمْتُ مَا يُرِيدُ، إِنَّمَا يُرِيدُ أَنْ يَذْهَبَ بِمَالِي، أَوْ بِدَرَاهِمِي، فَقَالَ رَسُولُ اللهِ ﷺ: «كَذَبَ، قَدْ عَلِمَ أَنِّي مِنْ أَتْقَاهُمْ لله وَآدَّاهُمْ لِلأَمَانَةِ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وَأَنَسٍ وَأَسْمَاءَ ابْنَةِ يَزِيدَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ، وَقَدْ رَوَاهُ شُعْبَةُ أَيْضًا عَنْ عُمَارَةَ بْنِ أَبِي حَفْصَةَ، قَالَ: وَسَمِعْتُ مُحَمَّدَ بْنَ فِرَاسٍ الْبَصْرِيَّ يَقُولُ: سَمِعْتُ أَبَا دَاوُدَ الطَّيَالِسِيَّ يَقُولُ: سُئِلَ شُعْبَةُ يَوْمًا عَنْ هٰذَا الْحَدِيثِ فَقَالَ: لَسْتُ أُحَدِّثُكُمْ حَتَّى تَقُومُوا إِلَى حَرَمِيِّ بْنِ عُمَارَةَ [بْنِ أَبِي حَفْصَةَ] فَتُقَبِّلُوا رَأْسَهُ. قَالَ: وَحَرَمِيٌّ فِي الْقَوْمِ. [قَالَ أَبُو عِيسَى:] أَيْ إِعْجَابًا بِهٰذَا الْحَدِيثِ.

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[1] A garment made with some coarseness and red designs in it. There was also a view that it is named after Qaṭar and that it comes from there. See *Tuhfat Al-Aḥwadhī* and *An-Nihāyah*.

تخريج: [إسناده صحيح] وأخرجه النسائي: ٧/ ٢٩٤، ح: ٤٦٣٢ (البيوع، باب البيع إلى الأجل المعلوم) عن عمرو بن علي الفلاس به * وفي الباب عن ابن عباس [يأتي: ١٢١٤] وأنس [يأتي: ١٢١٥] وأسماء بنت يزيد [ابن ماجه، ح: ٢٤٣٨] * قول شعبة، سنده صحيح.

Comments:

The Jews were well aware of the honesty of character of the Prophet ﷺ but as they were resentful, they always talked ill of him.

1214. Ibn 'Abbās narrated: "The Prophet ﷺ died while his armour was pawned for twenty *Ṣā'* of food that he got for his family." (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٢١٤ - **حَدَّثنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثنَا ابْنُ أَبِي عَدِيٍّ وعُثْمَانُ بْنُ أَبِي عُمَرَ عَنْ هِشَامِ ابْنِ حَسَّانَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: تُوُفِّيَ النَّبِيُّ ﷺ وَدِرْعُهُ مَرْهُونَةٌ بِعِشْرِينَ صَاعًا مِنْ طَعَامٍ، أَخَذَهُ لِأَهْلِهِ.

[**قَالَ أَبُو عِيسَى**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [حسن] وأخرجه النسائي: ٧/٣٠٣، ح: ٤٦٥٥ (البيوع، باب مبايعة أهل الكتاب) من حديث هشام بن حسان به وللحديث شواهد.

1215. Anas narrated: "I walked to the Prophet ﷺ with some barley bread that had some rancid oil poured over it. The Prophet ﷺ had pawned his armour with a Jew for twenty *Ṣā'* of food that he got for his family. That day (he pawned it), I heard him saying: 'Not for one evening has the household of Muḥammad had a *Ṣā'* of dates or a *Ṣā'* of grain.' And on that day he had nine wives." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٢١٥ - **حَدَّثنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثنَا ابْنُ أَبِي عَدِيٍّ عَنْ هِشَامٍ الدَّسْتَوَائِيِّ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ؛ ح: قَالَ مُحَمَّدُ [بْنُ هِشَامٍ]: وَأَخْبَرَنَا مُعَاذُ بْنُ هِشَامٍ قَالَ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ أَنَسٍ قَالَ: مَشَيْتُ إِلَى النَّبِيِّ ﷺ بِخُبْزِ شَعِيرٍ وَإِهَالَةٍ سَنِخَةٍ، وَلَقَدْ رُهِنَ لَهُ دِرْعٌ عِنْدَ يَهُودِيٍّ بِعِشْرِينَ صَاعًا مِنْ طَعَامٍ أَخَذَهُ لأَهْلِهِ، ولَقَدْ سَمِعْتُهُ ذَاتَ يَوْمٍ يَقُولُ: مَا أَمْسَى عِنْدَ آلِ مُحَمَّدٍ ﷺ صَاعُ تَمْرٍ وَلَا صَاعُ حَبٍّ، وإِنَّ عِنْدَهُ يَوْمَئِذٍ لَتِسْعَ نِسْوَةٍ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه البخاري، البيوع، باب شراء النبي ﷺ بالنسيئة، ح: ٢٠٦٩ من حديث هشام به بلفظ: "من طعام".

Comments:

It is clear from this narration that buying the needful and basic necessities on loan is approved and lawful. Such deals with non-Muslims are also permissible. Pawning something at the time of need is also lawful.

Chapter 8. What Has Been Related About Recording The Conditions

(المعجم ٨) - بَابُ مَا جَاءَ فِي كِتَابَةِ الشُّرُوطِ (التحفة ٨)

1216. 'Abbād bin Laith Al-Karābīsī [Al-Baṣrī] narrated: "Abdul-Majīd bin Wahb narrated to us, he said: 'Al-'Addā' bin Khālid bin Hawdhah said to me: "Shall I not read to you a letter that was written for me from the Messenger of Allāh ﷺ?"' He said: 'I said: "Of course." So he took out a letter for me: "This is what Al-'Addā' bin Khālid bin Hawdhah purchased from Muḥammad, the Messenger of Allāh ﷺ: He purchased from him a slave' – or – 'a female slave, having no ailments, nor being a runaway, nor having any malicious behavior. Sold by a Muslim to a Muslim."' (***Hasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except from 'Abbād bin Laith. More than one of the people of *Ḥadīth* have reported this *Ḥadīth* from him.

١٢١٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبَّادُ بْنُ لَيْثٍ صَاحِبُ الكَرَابِيسِي [البَصْرِيُّ]: حَدَّثَنَا عَبْدُ المَجِيدِ بْنُ وَهْبٍ قَالَ: قَالَ لِي العَدَّاءُ بْنُ خَالِدِ بْنِ هَوْذَةَ: أَلَا أُقْرِئُكَ كِتَابًا كَتَبَهُ لِي رَسُولُ اللهِ ﷺ؟ قَالَ: قُلْتُ: بَلَى، فَأَخْرَجَ لِي كِتَابًا: هٰذَا ما اشْتَرَى العَدَّاءُ بْنُ خَالِدِ بْنِ هَوْذَةَ مِنْ مُحَمَّدٍ رَسُولِ اللهِ ﷺ، اشْتَرَى مِنْهُ عَبْدًا أَوْ أَمَةً، لَا دَاءَ وَلَا غَائِلَةَ وَلَا خِبْثَةَ، بَيْعَ المُسْلِمِ المُسْلِمَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبَّادِ بْنِ لَيْثٍ، وَقَدْ رَوَى عَنْهُ هٰذَا الحَدِيثَ غَيْرُ وَاحِدٍ مِنْ أَهْلِ الحَدِيثِ.

تخريج: [حسن] وأخرجه ابن ماجه، التجارات، باب شراء الرقيق، ح:٢٢٥١ عن محمد بن بشار به وعلقه البخاري قبل، ح:٢٠٧٩ بصيغة التمريض وصححه ابن الجارود، ح:١٠٢٨ وحسنه الحافظ في الفتح:١٢/ ٣٥٠.

Comments:

This narration points out that while doing a business deal, Muslims should make it transparent and clear. All the faults and good qualities of the property should be made clear to the buyer. As this deal mentioned in the narration was barter based, so in the deed sometimes the name of 'Addā' is mentioned as buyer (*Ashtarā'*) and sometimes the name of the Prophet ﷺ is mentioned as buyer.

Chapter 9. What Has Been Related About Measures And Weights

(المعجم ٩) - بَابُ مَا جَاءَ فِي الْمِكْيَالِ وَالْمِيزَانِ (التحفة ٩)

1217. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said to the people of weights and measures: "Indeed you have been entrusted with two matters that nations preceding you in the past were destroyed for." ***(Da'īf)***

[Abū 'Eīsā said:] We do not know this *Hadīth* to be *Marfū'* except through the narration of Husain bin Qais, and Husain bin Qais was graded weak in *Hadīth*. This has been reported as a *Maqūf* narration from Ibn 'Abbās with a *Sahīh* chain of narration.

١٢١٧ - حَدَّثَنَا سَعِيدُ بْنُ يَعْقُوبَ الطَّالَقَانِيُّ: حَدَّثَنَا خَالِدُ بْنُ عَبْدِ اللهِ الْوَاسِطِيُّ عَنْ حُسَيْنِ بْنِ قَيْسٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ، قَالَ: قَالَ رَسُولُ اللهِ ﷺ لأَصْحَابِ الْكَيْلِ وَالْمِيزَانِ: «إِنَّكُمْ قَدْ وُلِّيتُمْ أَمْرَيْنِ، هَلَكَتْ فِيهِ الأُمَمُ السَّالِفَةُ قَبْلَكُمْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ حُسَيْنِ بْنِ قَيْسٍ، وَحُسَيْنُ ابْنُ قَيْسٍ يُضَعَّفُ فِي الْحَدِيثِ. وَقَدْ رُوِيَ هٰذَا بِإِسْنَادٍ صَحِيحٍ عَنِ ابْنِ عَبَّاسٍ مَوْقُوفًا.

تخريج: [إسناده ضعيف جدًا] وأخرجه الطبراني في الكبير: ١١/ ٢١٤، ح: ١١٥٣٥ والحاكم: ٢/ ٣١ من حديث خالد به وقال الحاكم: "صحيح الإسناد" فقال الذهبي: "حسين ضعفوه" وأخرجه ابن الجوزي في العلل: ٢/ ١٠٢، ح: ٩٧٢ من طريق الترمذي به.

Comments:

The Qur'ān mentions the destruction and extermination of the people of Shu'aib due to their cheating and deceiving in weights and measures. There were many tribes in this nation and all of them were involved in this vice and Allāh destroyed them all.

Chapter 10. What Has Been Related About Auctioning

(المعجم ١٠) - بَابُ مَا جَاءَ فِي بَيْعِ مَنْ يَزِيدُ (التحفة ١٠)

1218. Anas bin Mālik narrated that the Messenger of Allāh ﷺ sold a saddle blanket and a drinking bowl. He ﷺ said: "Who will buy this saddle blanket and drinking bowl?" So a man said: "I will take them for a Dirham." So the Prophet ﷺ said: "Who will give more than a Dirham? Who will give more than a Dirham?" A man agreed to give him two Dirham, so

١٢١٨ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ شُمَيْطِ بْنِ عَجْلَانَ: حَدَّثَنَا الأَخْضَرُ بْنُ عَجْلَانَ عَنْ عَبْدِ اللهِ الْحَنَفِيِّ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ رَسُولَ اللهِ ﷺ بَاعَ حِلْسًا وَقَدَحًا، وَقَالَ: «مَنْ يَشْتَرِي هٰذَا الْحِلْسَ وَالْقَدَحَ»؟ فَقَالَ رَجُلٌ: أَخَذْتُهُمَا بِدِرْهَمٍ، فَقَالَ النَّبِيُّ ﷺ: «مَنْ يَزِيدُ عَلَى

دِرْهَمٍ؟ مَنْ يَزِيدُ عَلَى دِرْهَمٍ؟» فَأَعْطَاهُ رَجُلٌ دِرْهَمَيْنِ، فَبَاعَهُمَا مِنْهُ.

he sold them to him. (*Hasan*)

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ الأَخْضَرِ بْنِ عَجْلَانَ، وَعَبْدُ اللهِ الحَنَفِيُّ الَّذِي رَوَى عَنْ أَنَسٍ، هُوَ أَبُو بَكْرٍ الحَنَفِيُّ، والْعَمَلُ عَلَى هذا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، لَمْ يَرَوْا بَأْسًا بِبَيْعِ مَنْ يَزِيدُ فِي الْغَنَائِمِ والْمَوَارِيثِ وَقَدْ رَوَى الْمُعْتَمِرُ بْنُ سُلَيْمَانَ، وغَيْرُ وَاحِدٍ مِنْ أَهْلِ الحَدِيثِ عَنِ الأَخْضَرِ بْنِ عَجْلَانَ.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. We do not know of it except from the narration of Al-Akhdar bin 'Ajlān, and 'Abdullāh Al-Hanafī who is reporting from Anas, is Abū Bakr Al-Hanafī.

This is acted upon according to some of the people of knowledge, they did not see any harm in auctioning the spoils of war and inheritance.

Al-Mu'tamir bin Sulaimān and others among the people of *Hadīth* reported from Al-Akhdar bin 'Ajlān.

تخريج: **[إسناده حسن]** وأخرجه أبو داود، الزكاة، باب ما تجوز فيه المسألة، ح:١٦٤١ وابن ماجه، ح:٢١٩٨ والنسائي، ح:٤٥١٢ من حديث الأخضر بن عجلان به، وأبو بكر الحنفي وثقه الترمذي وابن حبان، والحديث صححه ابن الجارود، ح:٥٦٩.

Comments:

In the view of Imām Awzā'i and Ishāq and some other scholars, only spoils of war and the property of inheritance can be sold by bidding and auction. Most of the people of knowledge, Imām Shāfi'ī and Imām Mālik are of view that all types of property and commodities can be sold by bidding and auction. It is not allowed to raise the price when the deal is over. (*Tuhfat Al-Ahwadhī* v. 2. p.230.)

Chapter 11. What Has Been Related About The Sale Of A *Mudabbar*

(المعجم ١١) - **بَابُ مَا جَاءَ فِي بَيْعِ الْمُدَبَّرِ** (التحفة ١١)

١٢١٩ - **حَدَّثَنَا** ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ جَابِرٍ: أَنَّ رَجُلًا مِنَ الأَنْصَارِ دَبَّرَ غُلَامًا لَهُ، فَمَاتَ ولَمْ يَتْرُكْ مَالًا غَيْرَهُ، فَبَاعَهُ النَّبِيُّ ﷺ، فاشْتَرَاهُ نُعيمُ [بْنُ عَبْدِ اللهِ] بْنِ النَّحَّامِ قَالَ جَابِرٌ: عَبْدًا قِبْطِيًّا مَاتَ عَامَ الأَوَّلِ، فِي إِمَارَةِ ابْنِ الزُّبَيْرِ.

1219. Jābir narrated: "A man among the *Ansār* decided to free a slave of his after his death. He died but he left no wealth behind beside the slave. So the Prophet ﷺ sold him and Nu'aim [bin 'Abdullāh] bin An-Nah-hām bought him." Jābir said: "He was a Coptic slave who died during the first year of the leadership of Ibn Az-Zubair." (*Sahīh*)

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

[Abū 'Eīsā said:] This *Hadīth* is

Hasan Sahih and it has been reported through more than one route from Jābir bin 'Abdullāh.

This *Hadīth* is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They did not see any harm in the sale of a *Mudabbar*. This is the view of Ash-Shāfi'ī, Ahmad and Ishāq. There are those among people of knowledge, among the Companions of the Prophet ﷺ and others, who disliked selling the *Mudabbar*. This is the view of Sufyān Ath-Thawrī, Mālik and Al-Awzā'ī.

صَحِيحٌ وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، والْعَمَلُ عَلَى هذَا الحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ لَمْ يَرَوْا بِبَيْعِ المُدَبَّرِ بَأْسًا وهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ، وَكَرِهَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ بَيْعَ المُدَبَّرِ، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَمَالِكٍ والأَوْزَاعِيِّ.

تخريج: متفق عليه، ومسلم، الأيمان، باب جواز بيع المدبر، ح:٩٩٧/٥٩ من حديث سفيان بن عيينة والبخاري، ح:٦٧١٦ من حديث عمرو بن دينار به.

Comments:

The slave who is promised by his owner to be freed after the owners' death is called '*Mudabbar*.' There are different opinions about the sale of *Mudabbar*. But according to a *Sahīh* narration, the sale of a *Mudabbar* is proved (*Tuhfat Al-Ahwadhī* v.2. p. 231). A *Mudabbar* can only be sold in case of dire need.

Chapter 12. What Has Been Related About It Being Disliked To Meet The Owners Of The Goods

(المعجم ١٢) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ تَلَقِّي الْبُيُوعِ (التحفة ١٢)

1220. Ibn Mas'ūd narrated from the Prophet ﷺ: "He prohibited meeting the owners of the goods."[1]

[He said:] There are narrations on this topic from 'Alī, Ibn 'Abbās, Abū Hurairah, Abū Sa'eed, Ibn 'Umar, and a man from the

١٢٢٠ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا ابْنُ الْمُبَارَكِ: حَدَّثَنَا سُلَيْمَانُ التَّيْمِيُّ عَنْ أَبِي عُثْمَانَ، عَنِ ابْنِ مَسْعُودٍ عَنِ النَّبِيِّ ﷺ: أَنَّهُ نَهَى عَنْ تَلَقِّي الْبُيُوعِ. [قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ وابْنِ عَبَّاسٍ وأَبِي هُرَيْرَةَ وأَبِي سَعِيدٍ

[1] This is a situation when merchants from the town or city meet villagers before they arrive at city markets and inform them of depression and unsalability of their wares, with the intention of deceiving them into selling those wares at prices much cheaper then actual market prices.

Companions of the Prophet ﷺ. (*Ṣaḥīḥ*)

وابْنِ عُمَرَ ورَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب تحريم تلقي الجلب، ح:١٥١٨ من حديث ابن المبارك والبخاري، ح:٢١٦٤ من حديث سليمان به * وفي الباب عن علي [لم أجده] وابن عباس [البخاري، ح:٢١٥٨ ومسلم، ح:١٥٢١] وأبي هريرة [يأتي:١٢٢١] وأبي سعيد [الطحاوي في معاني الآثار:٤/٨] وابن عمر [مسلم، ح:١٥١٧] ورجل من أصحاب النبي ﷺ [أحمد:٤/ ٣١٤].

Comments:

The word *'Talaqqa'* means to go out of a populace to meet the merchant caravan. Here *'Al-Buyū'* stands for the merchandise or goods for sale.

1221. Abū Hurairah narrated: "The Prophet ﷺ prohibited meeting the goods being brought (to the market). If someone were to meet them and buy them, then the owner of the goods retains the option when he reaches the market." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This Ḥadīth is *Ḥasan Gharīb* narration of Ayyūb (a narrator). The Ḥadīth of Ibn Mas'ūd is a *Ḥasan Ṣaḥīḥ Ḥadīth*. There are those among the people of knowledge who disliked meeting the owners of the goods, saying that it is a type of deception. This is the view of Ash-Shāfi'ī, and others among our companions.

١٢٢١ - **حَدَّثَنَا** سَلَمَةُ بْنُ شَبِيبٍ: حَدَّثَنا عَبْدُ اللهِ بْنُ جَعْفَرٍ الرَّقِّيُّ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ عَمْرٍو الرَّقِّيُّ عَنْ أَيُّوبَ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ النَّبِيَّ ﷺ نَهَى أَنْ يُتَلَقَّى الجَلَبُ، فَإِنْ تَلَقَّاهُ إِنْسَانٌ فابْتَاعَهُ، فَصَاحِبُ السِّلْعَةِ فِيهَا بِالخِيارِ، إِذَا وَرَدَ السُّوقَ.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ أَيُّوبَ. وَحدِيثُ ابْنِ مَسْعُودٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَقَدْ كَرِهَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ تَلَقِّي البُيُوعِ، وهُوَ ضَرْبٌ مِنَ الخَدِيعَةِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وغَيْرِهِ مِنْ أَصْحَابِنَا.

تخريج: [إسناده صحيح] وأخرجه أبو داود، البيوع، باب: في التلقى، ح:٣٤٣٧ من حديث عبيدالله بن عمرو، ومسلم، ح:١٥١٩ من حديث محمد بن سيرين به.

Comments:

The Prophet ﷺ has prohibited the purchase of goods on the way while being brought to the market until they reach it. It is prohibited to go out of the village or town and meet the merchants on the way and purchase the goods at a low price as the owner is unaware of the market price.

Chapter 13. What Has Been Related About 'The Dweller Of A Town Is Not To Sell On Behalf Of The Bedouin'

(المعجم ١٣) - بَابُ مَا جَاءَ لَا يَبِيعُ حَاضِرٌ لِبَادٍ (التحفة ١٣)

1222. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The dweller of the town is not to sell for the Bedouin." (***Sahīh***)

[He said:] There are narrations on this topic from Ṭalḥah, Jābir, Anas, Ibn 'Abbās, Ḥakīm bin Abī Yazīd from his father, 'Amr bin 'Awf Al-Muzanī the grandfather of Kathīr bin 'Abdullāh, and a man from the Companions of the Prophet ﷺ.

١٢٢٢ - حَدَّثَنَا قُتَيْبَةُ وأَحْمَدُ بْنُ مَنِيعٍ قَالَا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ - وقَالَ قُتَيْبَةُ: يَبْلُغُ بِهِ النَّبِيَّ ﷺ قَالَ -: «لَا يَبِيعُ حَاضِرٌ لِبَادٍ».

[قَالَ:] وفِي الْبَابِ عَنْ طَلْحَةَ وجَابِرٍ وأَنَسٍ وابْنِ عَبَّاسٍ وَحَكِيمِ بْنِ أَبِي يَزِيدَ، عَنْ أَبِيهِ، وعَمْرِو بْنِ عَوْفٍ الْمُزَنِيِّ جَدِّ كَثِيرِ بْنِ عَبْدِ اللهِ وَرَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

تخريج: وأخرجه البخاري، البيوع، باب: لا يبيع على بيع أخيه ... إلخ، ح:٢١٤٠ من حديث سفيان بن عيينة به، ومسلم، ح:١٥١٥ من طريق آخر عن أبي هريرة به * وفي الباب عن طلحة [أبو داود، ح:٣٤٤١] وأنس [البخاري، ح:٢١٦١ ومسلم، ح:١٥٢٣] وجابر [يأتي: ١٢٢٣] وابن عباس [البخاري، ح:٢١٥٨ ومسلم، ح:١٥٢١] وحكيم بن أبي يزيد [عبد بن حميد، ح:٤٣٨ وأحمد:٣/٤١٨ وانظر أطراف المسند] وعمرو بن عوف المزني [البزار (كشف الأستار):٢/٨٩، ح:١٢٧٢] ورجل من أصحاب النبي ﷺ [أحمد:٤/٣١٤].

Comments:

There is great wisdom in this prohibition. This prevention is to eliminate the commission agents from in between the urban population and the residents of the rural area who come to the towns and cities to sell their produce and products. Usually the people of rural areas bring their goods to sell to the people of a town with the intention of fulfilling the needs of both areas. If they sell their goods directly to the dwellers of the town they will get the goods at a low price and the seller will get the money to fulfill his other needs. But if a third person from the town or city comes in between, it creates many problems. The seller gets his money late because the commission agent will not give him money until he sells it (since he likes to sell at a higher price) and the purchaser gets the goods at a high price and the commission agent makes the money for nothing. There are many other vices which emerge from this action. Hoarding, black marketing, problems of demand and supply etc., make life troublesome.

1223. Jābir narrated that the Messenger of Allāh ﷺ said: "The dweller of the town is not to sell for the Bedouin, leave the people; Allāh provides for some of them through others." (***Sahīh***)

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Hadīth*, and this *Hadīth* of Jābir is a *Hasan Sahīh Hadīth* as well.

This *Hadīth* is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They dislike the dweller of the town to sell for the Bedouin, while some of them permitted the town dweller to purchase for the Bedouin. Ash-Shāfi'ī said: "It is disliked for the dweller of the town to sell for the Bedouin, and if he does sell, then the sale is permissible."

١٢٢٣ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ وأَحْمَدُ بْنُ مَنِيعٍ قَالَا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا يَبِيعُ حَاضِرٌ لِبَادٍ، دَعُوا النَّاسَ، يَرْزُقِ اللهُ بَعْضَهُمْ مِنْ بَعْضٍ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وحَدِيثُ جَابِرٍ فِي هٰذَا، هُوَ حَدِيثٌ حَسَنٌ صَحِيحٌ أَيْضًا، وَالعَمَلُ عَلَى هٰذَا الحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ، كَرِهُوا أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ، وَرَخَّصَ بَعْضُهُمْ فِي أَنْ يَشْتَرِيَ حَاضِرٌ لِبَادٍ. وقَالَ الشَّافِعِيُّ: يُكْرَهُ أَنْ يَبِيعَ حَاضِرٌ لِبَادٍ، وَإِنْ بَاعَ فالْبَيْعُ جَائِزٌ.

تخريج: وأخرجه مسلم، البيوع، باب تحريم بيع الحاضر للبادي، ح:١٥٢٢ من حديث سفيان بن عيينة به.

Comments:

This narration of Jābir makes the point clear; if the buyer and seller deal directly it is beneficial for both of them. When a person from a rural area brings his goods and sells them directly to the people of the town without any intervention of a third person, he sells them at the price which suits him and he gets the money on the spot. This encourages him to bring more things to the town and ultimately business flourishes and the residents of the town get needed things on reasonably low prices. But if there is an intervention of a third person, it complicates the whole business process. Supply and demand is affected. The third person or the commission agent does not supply the needed thing in time and raises the prices. The owners of the goods do not get their money on the spot and their needs are delayed. So, Islam has prevented such intervention.

Chapter 14.What Has Been Related About the Prohibition of *Muhāqalah* and *Muzābanah*

(المعجم ١٤) - بَابُ مَا جَاءَ فِي النَّهْيِ، عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ (التحفة ١٤)

1224. Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited *Muhāqalah* and *Muzābanah*."

[He said:] There are narrations on this topic from Ibn 'Umar, Ibn 'Abbās, Zaid bin Thābit, Sa'd, Jābir, Rāfi' bin Khadīj, and Abū Sa'eed. (***Sahīh***)

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Hadīth*.

Muhāqalah is selling crops for wheat, and *Muzābanah* is selling dates that are on the date-palm for dried dates. This is acted upon according to most of the people of knowledge, they disliked sales of *Muhāqalah* and *Muzābanah*.

١٢٢٤ - حَدَّثَنَا قُتَيْبَةُ: حدَّثَنا يَعْقُوبُ بْنُ عَبْدِ الرَّحْمٰنِ [الإِسْكَنْدَرانِيُّ] عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ المُحَاقَلَةِ والمُزَابَنَةِ.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ وابْنِ عَبَّاسٍ وَزَيْدِ بْنِ ثابِتٍ وسَعْدٍ وجَابِرٍ ورَافِعِ بْنِ خَدِيجٍ وأَبِي سَعِيدٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

والمُحَاقَلَةُ بَيْعُ الزَّرْعِ بِالحِنْطَةِ، والمُزَابَنَةُ بَيْعُ الثَّمَرِ عَلَى رُؤُوسِ النَّخْلِ بِالتَّمْرِ، والعَمَلُ عَلَى هذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، كَرِهُوا بَيْعَ المُحَاقَلَةِ والمُزَابَنَةِ.

تخريج: وأخرجه مسلم، البيوع، باب كراء الأرض، ح:١٥٤٥ عن قتيبة به * وفي الباب عن ابن عمر [البخاري، ح:٢٢٠٥ ومسلم، ح:١٥٤٢] وابن عباس [البخاري، ح:٢١٨٧] وزيد بن ثابت [أبو داود، ح:٣٤٠٧] وسعد [يأتي:١٢٢٥] وجابر [مسلم، ح:١٥٣٦] ورافع بن خديج [أبو داود، ح:٣٤٠٠ وابن ماجه، ح:٢٢٦٧، ٢٤٤٩] وأبي سعيد [البخاري، ح:٢١٨٦ ومسلم، ح:١٥٤٦].

Comments:

There is a difference of opinion in the explanation of *'Muhāqalah'*. A) Selling of standing crops for cleaned and dry wheat. B) To give the land for cultivation on the basis of division of crop or on fixed amount of money. C) Selling of the standing crop before it is ready for reaping. *'Muzābanah'* is selling of the fruits still on the trees for dried dates. Islam has prohibited both types of dealings because standing wheat crops when not yet ready for reaping, and fruits on the tree both, are not measurable or weighable. So, depending one's guess is not right, it may bring problems for one of the parties, that is why Islam has prohibited this kind of deal.

1225. 'Abdullāh bin Yazīd narrated: "Zaid, Abū Ayyāsh asked Sa'd regarding white wheat in exchange for barley: which of them was better? He said the white, then he forbade that. Sa'd said: 'I heard the Messenger of Allāh ﷺ being asked about selling dried dates for ripe dates and he said to those present: "Will the fresh dates shrink when they are dry?" They said yes, so he forbade that.'" (*Hasan*)

(Another chain of narrators) with similar meaning.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*, and this is acted upon according to the people of knowledge. It is the view of Ash-Shāfi'ī and our companions.

١٢٢٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ عَبْدِ اللهِ بْنِ يَزِيدَ: أَنَّ زَيْدًا أَبَا عَيَّاشٍ، سَأَلَ سَعْدًا عَنِ الْبَيْضَاءِ بِالسُّلْتِ، فَقَالَ: أَيُّهُمَا أَفْضَلُ؟ قَالَ: الْبَيْضَاءُ، فَنَهَى عَنْ ذٰلِكَ، وَقَالَ سَعْدٌ: سَمِعْتُ رَسُولَ اللهِ ﷺ يُسْأَلُ عَنِ اشْتِرَاءِ التَّمْرِ بِالرُّطَبِ، فَقَالَ لِمَنْ حَوْلَهُ: «أَيَنْقُصُ الرُّطَبُ إِذَا يَبِسَ؟» قَالُوا: نَعَمْ، فَنَهَى عَنْ ذٰلِكَ.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وكِيعٌ عَنْ مَالِكٍ، عَنْ عَبْدِ اللهِ بْنِ يَزِيدَ، عَنْ زَيْدٍ أَبِي عَيَّاشٍ قَالَ: سَأَلْنَا سَعْدًا، فَذَكَرَ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هذَا عِنْدَ أَهْلِ الْعِلْمِ، وهُوَ قَوْلُ الشَّافِعِيِّ وأَصْحَابِنَا.

تخريج: [إسناده حسن] وأخرجه أبو داود، البيوع، باب: في الثمر بالتمر، ح:٣٣٥٩ وابن ماجه، ح:٢٢٦٤ والنسائي:٧/٢٩٨، ٢٦٩، ح:٤٥٤٩ من حديث مالك به وهو في الموطأ:٢/ ٦٢٤ وصححه ابن حبان (موارد):٦٥٧ وابن الجارود، ح:٦٥٧ والحاكم:٢/٣٨، ٣٩ والذهبي.

Comments:

The point made clear in this narration is that the exchange of the same kind of produce is not approved if there is a difference in the quality or the quantity of the produce in being exchanged. Imām Abū Hanīfah allows the exchange of fresh and dried dates, whereas there is a difference of weight in this exchange. Fresh dates when dried up weigh less, for this reason the exchange of fresh dates and dried dates is prohibited. Most of the people act on the narration. (*Tuhfat Al-Ahwadhī* v. 2 p.233-234.)

Chapter 15. What Has Been Related About It Being Disliked To Sell Fruits Until They Begin To Blossom

(المعجم ١٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الثَّمَرَةِ حَتَّى يَبْدُوَ صَلَاحُهَا (التحفة ١٥)

1226. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ prohibited selling date-palms until they have blossomed." (*Sahīh*)

١٢٢٦ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ نَهَى عَنْ

بَيْعِ النَّخْلِ حَتَّى يَزْهُوَ.

تخريج: وأخرجه مسلم، البيوع، باب النهي عن بيع الثمار قبل بدو صلاحها بغير شرط القطع، ح:١٥٣٥ من حديث إسماعيل ابن علية به.

1227. With this (same as no. 1226) chain: "The Prophet ﷺ prohibited selling ears (of grain) until they have whitened (shown their kernals) and are safe from blight, he forbade it for the seller and the buyer."

[He said:] There are narrations on this topic from Anas, 'Āishah, Abū Hurairah, Ibn 'Abbās, Jabir, Abū Sa'eed, and Zaid bin Thābit. **(*Saḥīḥ*)**

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. They dislike selling fruits before their usefulness appears, this is the view of Ash-Shāfi'ī, Aḥmad and Isḥāq.

١٢٢٧ - **وبِهٰذَا** الإِسْنَادِ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ بَيْعِ السُّنْبُلِ حَتَّى يَبْيَضَّ وَيَأْمَنَ العَاهَةَ، نَهَى البائِعَ والْمُشْتَرِي.

[قَالَ:] وَفِي الْبَابِ عَنْ أَنَسٍ، وَعَائِشَةَ، وَأَبِي هُرَيْرَةَ، وابْنِ عَبَّاسٍ، وَجَابِرٍ وأَبِي سَعِيدٍ وَزَيْدِ بْنِ ثَابِتٍ.

[**قَالَ أَبُو عِيسَى:**] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. كَرِهُوا بَيْعَ الثِّمَارِ قَبْلَ أَنْ يَبْدُوَ صَلَاحُهَا، وهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ.

تخريج: وأخرجه مسلم، انظر الحديث السابق * وفي الباب عن أنس، [يأتي:١٢٢٨] وعائشة [أحمد: ٦/ ٧٠، ١٠٥] وأبي هريرة [مسلم، ح:٥٣٨] وابن عباس [البخاري، ح:٢٢٤٦ ومسلم، ح:١٥٣٧] وجابر [البخاري، ح:١٤٨٧ ومسلم، ح:١٥٣٦] وأبي سعيد [الطبراني في الأوسط، ح:٦٤١٢] وزيد بن ثابت [أبو داود، ح:٣٣٧٢ وأحمد:٥/ ١٨٥، ١٩٠].

1228. Anas narrated: "The Messenger of Allāh ﷺ prohibited selling grapes until they appear and selling grains until they become firm." **(*Ḍa'īf*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it being *Marfū'* except from the narration of Ḥammād bin Salamah.

١٢٢٨ - **حَدَّثَنَا** الحَسَنُ بْنُ عَلِيٍّ الخَلَّالُ: حَدَّثَنَا أَبُو الوَلِيدِ وَعَفَّانُ وَسُلَيْمَانُ بْنُ حَرْبٍ قَالُوا: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ: أَنَّ رَسُولَ اللهِ ﷺ نَهَى عَنْ بَيْعِ العِنَبِ حَتَّى يَسْوَدَّ، وَعَنْ بَيْعِ الحَبِّ حَتَّى يَشْتَدَّ.

[**قَالَ أَبُو عِيسَى:**]: هٰذَا حَدِيثٌ حَسَنٌ

غَرِيبٌ، لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ حَمَّادِ بْنِ سَلَمَةَ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، البيوع، باب: في بيع الثمار قبل أن يبدو صلاحها، ح:٣٣٧١ عن الحسن بن علي وابن ماجه، ح:٢٢١٧ من حديث حماد بن سلمة به، حميد عنعن وصححه ابن حبان (الإحسان):٤٩٧٢ والحاكم:٢/١٩ على شرط الشيخين ووافقه الذهبي.

Comments:

The orders of not selling the grains and fruits until they are ripe enough and safe from blight, were given to stop the conflict between the buyer and the seller. Though it is prohibited to sell before it is ripe and safe but if the buyer wants to reap the crop and pick up the fruit from the trees before it is ready, then according to the Four *A'immah* it is approved and lawful to sell it.

Chapter 16. What Has Been Related About The Sale Of *Ḥabalil-Ḥabalah*

(المعجم ١٦) - بَابُ مَا جَاءَ فِي بَيْعِ حَبَلِ الْحَبَلَةِ (التحفة ١٦)

1229. Ibn 'Umar narrated: "The Prophet ﷺ prohibited the sale of *Ḥabalil-Ḥabalah*." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Abbās and Abū Sa'eed Al-Khudrī.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. And *Ḥabalil-Ḥabalah* is the offspring of the offspring (of an animal). It is an invalid sale according to the people of knowledge and it is a type of *Gharar* sale.[1]

Shu'bah reported this *Ḥadīth* from Ayyūb, from Sa'eed bin Jubair, from Ibn 'Abbās.

'Abdul-Wahhāb Ath-Thaqafī and others reported it from Ayyūb, from Sa'eed bin Jubair and Nāfi',

١٢٢٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ بَيْعِ حَبَلِ الْحَبَلَةِ.

[قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَبَّاسٍ وَأَبِي سَعِيدٍ الْخُدْرِيِّ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هذَا عِنْدَ أَهْلِ الْعِلْمِ، وَحَبَلُ الْحَبَلَةِ نِتَاجُ النِّتَاجِ، وَهُوَ بَيْعٌ مَفْسُوخٌ عِنْدَ أَهْلِ الْعِلْمِ، وَهُوَ مِنْ بُيُوعِ الْغَرَرِ. وَقَدْ رَوَى شُعْبَةُ هذَا الْحَدِيثَ عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ. وَرَوَى عَبْدُ الْوَهَّابِ الثَّقَفِيُّ وغَيْرُهُ عَنْ أَيُّوبَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ وَنَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ، وهٰذَا أَصَحُّ.

[1] See the next chapter.

from Ibn 'Umar, from the Prophet ﷺ, and this is more correct.

تخريج: [صحيح] وأخرجه النسائي في الكبرى، ح:٦٢١٩ عن قتيبة، والبخاري، ح:٢١٤٣ ومسلم، ح:١٥١٤ من حديث نافع به * وفي الباب عن عبدالله بن عباس [النسائي، ح:٤٦٢٦] وأبي سعيد الخدري [يأتي مختصرًا: ١٥٦٣ وابن ماجه، ح:٩٦].

Comments:

'Ḥabalah' is plural of *'Ḥabl'* as *'Katabah'* is plural of *'Katab'* *'Ḥabalil Ḥabalah'* is an offspring of the offspring of an animal. Explanation: A) To pay at the time when the she-camel will give birth to a she-camel and that offspring she-camel will give birth to a camel or she-camel. Imām Shafi'ī and some others support this explanation of *'Ḥabalil Ḥabalah'*. B) Others said it is to pay at the time when the she-camel gives birth to a she-camel and that offspring she-camel gets pregnant. In both situations the deal is unlawful and strictly disapproved because of the time factor. Nobody knows what will happen during this long period of time.

Chapter 17. What Has Been Related About: Sales Of *Gharar*[1] Are Disliked

(المعجم ١٧) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْغَرَرِ (التحفة ١٧)

1230. Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited the *Gharar* sale, and the *Ḥaṣāh* sale." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Ibn 'Umar, Ibn 'Abbās, Abū Sa'eed, and Anas.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

This *Ḥadīth* is acted upon according to the people of knowledge, they dislike the *Gharar* sale. Ash-Shāfi'ī said: "The *Gharar* sale includes selling fish that are in the water, selling a slave that has escaped, selling birds that are in the sky, and similar types of sales. And the meaing of the *Ḥaṣāh* sale is when the seller says to the buyer:

١٢٣٠ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو أُسَامَةَ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ بَيْعِ الْغَرَرِ وَبَيْعِ الْحَصَاةِ.

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَابْنِ عَبَّاسٍ وَأَبِي سَعِيدٍ وَأَنَسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ، كَرِهُوا بَيْعَ الْغَرَرِ. قَالَ الشَّافِعِيُّ: وَمِنْ بَيْعِ الْغَرَرِ بَيْعُ السَّمَكِ فِي الْمَاءِ، وَبَيْعُ الْعَبْدِ الآبِقِ، وَبَيْعُ الطَّيْرِ فِي السَّمَاءِ، وَنَحْوُ ذَلِكَ مِنَ الْبُيُوعِ، وَمَعْنَى بَيْعِ

[1] A sale involving uncertainty or deceit. It normally refers to the sale of what one does not possess, or what can not be defined, see the comments of the author.

'When I toss the pebble at you, then the sale between you and I is final.' This resembles the sale of *Munābadhah* and this is one of the selling practices of the people of *Jahiliyyah*."

الْحَصَاةِ، أَنْ يَقُولَ الْبَائِعُ لِلْمُشْتَرِي: إِذَا نَبَذْتُ إِلَيْكَ بِالْحَصَاةِ، فَقَدْ وَجَبَ الْبَيْعُ فِيمَا بَيْنِي وَبَيْنَكَ. وَهٰذَا يُشْبِهُ بَيْعَ الْمُنَابَذَةِ، وَكَانَ هٰذَا مِنْ بُيُوعِ أَهْلِ الْجَاهِلِيَّةِ.

تخريج: وأخرجه مسلم، البيوع، باب بطلان بيع والحصاة والبيع الذي فيه غرر، ح:١٥١٣ من حديث أبي أسامة به * وفي الباب عن ابن عمر [ابن حبان، ح:١١١٥ والبيهقي:٥/٣٣٨] وابن عباس [ابن ماجه، ح:٢١٩٥] وأبي سعيد [لعله يشير إلى حديث البخاري، ح:٦٢٨٤ ومسلم، ح:١٥١٢] وأنس [أبو يعلى:٥/١٥٥، ح:٢٧٦٧ والبيهقي:٥/٩].

Comments:

A sale involving uncertainty and deceitful tricks is called a sale of *'Gharar'*. All such sales that are based on deceiving others are unlawful and prohibited. All *A'immah* and scholars agree on this issue. The example of the sale of *Gharar* is selling an animal which is still in the womb of the mother or sale of the fish which is still in water and the net has been thrown for their catch, or selling a slave that has escaped, or sale of birds which are in the sky and sale of run away or lost animals.

Chapter 18. What Has Been Related About The Prohibition Of Two Sales In One

(المعجم ١٨) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ (التحفة ١٨)

1231. Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited two sales in one."

There are narrations on this topic from 'Abdullāh bin 'Amr, Ibn 'Umar, and Ibn Mas'ūd. (***Hasan***)

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Hadīth*.

This is acted upon according to the people of knowledge. Some of the people of knowledge have explained it by saying that two sales in one is when one says: "I will sell you this garment for ten in cash, and twenty on credit." He does not distinguish between either of the two sales. But when he distinguishes it as being one of them, then there is no harm when

١٢٣١ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدَةُ بْنُ سُلَيْمَانَ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ.

وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو وَابْنِ عُمَرَ وَابْنِ مَسْعُودٍ.

[**قَالَ أَبُو عِيسَى:**] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، وَقَدْ فَسَّرَ بَعْضُ أَهْلِ الْعِلْمِ، قَالُوا: بَيْعَتَيْنِ فِي بَيْعَةٍ، أَنْ يَقُولَ: أَبِيعُكَ هٰذَا الثَّوبَ بِنَقْدٍ بِعَشْرَةٍ، وَبِنَسِيئَةٍ بِعِشْرِينَ، وَلَا يُفَارِقُهُ عَلَى أَحَدِ الْبَيْعَيْنِ، فَإِذَا فَارَقَهُ عَلَى

one of them is agreed upon.

Ash-Shāfi'ī said: "Included in the meaning of what the Prophet ﷺ prohibited of regarding two sales in one, is if one said: 'I will sell you this house of mine for that (price), upon the condition that you sell me your slave for this (price). When I get the slave, then you get the house.' In this way the sales are distinguished without the prices being known, and neither of them knows what will happen at the conclusion of it (the agreement)."

أَحَدِهِمَا، فَلَا بَأْسَ إِذَا كَانَتِ الْعُقْدَةُ عَلَى وَاحِدٍ مِنْهُمَا. قَالَ الشَّافِعِيُّ: وَمِنْ مَعْنَى مَا نَهَى النَّبِيُّ ﷺ عَنْ بَيْعَتَيْنِ فِي بَيْعَةٍ، أَنْ يَقُولَ: أَبِيعُكَ دَارِي هَذِهِ بِكَذَا، عَلَى أَنْ تَبِيعَنِي غُلَامَكَ بِكَذَا فَإِذَا وَجَبَ لِي غُلَامُكَ وَجَبَ لَكَ دَارِي، وَهٰذَا يُفَارِقُ عَنْ بَيْعٍ بِغَيْرِ ثَمَنٍ مَعْلُومٍ، وَلَا يَدْرِي كُلُّ وَاحِدٍ مِنْهُمَا عَلَى مَا وَقَعَتْ عَلَيْهِ صَفْقَتُهُ.

تخريج: [إسناده حسن] وأخرجه النسائي، البيوع، باب بيعتين في بيعة ... إلخ، ح:٧/ ٢٩٥، ح:٤٦٣٦ من حديث محمد بن عمرو به * وفي الباب عن عبدالله بن عمرو [يأتي: ١٢٣٤ وأحمد: ٢/ ١٧٤، ١٧٥ والبيهقي: ٥/ ٣٤٣] وابن عمر [ابن عبدالبر في التمهيد: ٢٤/ ٣٨٨] وابن مسعود [أحمد: ١/ ٣٩٨] وغيره.

Comments:

Three explanations have been given of "two sales in one" by scholars. Imām At-Tirmidhi has already given two explanations of the narration and the third explanation is that a person pays another person one Dinar on the promise that he will give him ten kilos of wheat next month. After one month when he demands ten kilos of wheat the other man says that the wheat he owes him may be sold to him again and next month he will give him twenty kilos of wheat. All kinds of such sales are unlawful and strictly prohibited. It is also a kind of *Ribā*.

Chapter 19. What Has Been Related About It Being Disliked To Sell What One Does Not Have

(المعجم ١٩) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ مَا لَيْسَ عِنْدَهُ (التحفة ١٩)

1232. Ḥakīm bin Ḥizām narrated: "I asked the Messenger of Allāh ﷺ, I said: 'A man came to me asking to buy something that I did not have. Can I buy it from the market for him and then give it to him?'[1] He said: 'Do not sell what

١٢٣٢ - **حَدَّثَنَا** قُتَيْبَةُ: حدَّثنا هُشَيْمٌ عَنْ أَبِي بِشْرٍ، عَنْ يُوسُفَ بْنِ مَاهَكَ، عَنْ حَكِيمِ ابْنِ حِزَامٍ قَالَ: سَأَلْتُ رَسُولَ اللهِ ﷺ. فَقُلْتُ: يَأْتِينِي الرَّجُلُ يَسْأَلُنِي مِنَ الْبَيْعِ مَا لَيْسَ عِنْدِي، أَبْتَاعُ لَهُ مِنَ السُّوقِ ثُمَّ أَبِيعُهُ؟

[1] That is: Collect the money from him as in a sale, pay it in the market and then give it to him? See *Tuḥfat Al-Aḥwadhī*.

قَالَ: «لَا تَبِعْ ما لَيْسَ عِنْدَكَ».

is not with you.'" (*Hasan*)

تخريج: [إسناده حسن] وأخرجه النسائي: ٧/ ٢٨٩، ح: ٤٦١٧ (البيوع، باب بيع ما ليس عند البائع) من حديث هشيم، وأبو داود، ح: ٣٥٠٣ وابن ماجه، ح: ٢١٨٧ من حديث أبي بشر به وصححه ابن حزم، وله طرق كثيرة عند ابن الجارود، ح: ٦٠٢ وغيره.

١٢٣٣ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ يُوسُفَ بْنِ ماهَكَ، عَنْ حَكِيمِ بْنِ حِزَامٍ قَالَ: نَهانِي رَسُولُ اللهِ ﷺ أَنْ أَبِيعَ ما لَيْسَ عِنْدِي.

[قَالَ أَبُو عِيسَى:] وَهٰذَا حَدِيثٌ حَسَنٌ، قَالَ وَفِي الْبَابِ عَنْ عَبْدِاللهِ بْنِ عُمَرَ.

قَالَ إِسْحَاقُ بْنُ مَنْصُورٍ: قُلْتُ لِأَحْمَدَ مَا مَعْنَى نَهَى عَنْ سَلَفٍ وَبَيْعٍ؟ قَالَ: أَنْ يَكُونَ يُقْرِضُهُ قَرْضًا ثُمَّ يُبايِعُهُ عَلَيْهِ بَيْعًا يَزْدَادُ عَلَيْهِ، وَيَحْتَمِلُ أَنْ يَكُونَ يُسْلِفُ إِلَيْهِ فِي شَيْءٍ فَيَقُولُ: إِنْ لَمْ يَتَهَيَّأْ عِنْدَكَ فَهُوَ بَيْعٌ عَلَيْكَ، قَالَ إِسْحَاقُ [يَعْنِي ابْنَ راهُويَه] كَمَا قَالَ قُلْتُ لِأَحْمَدَ: وعَنْ بَيْعِ ما لَمْ تَضْمَنْ؟ قَالَ: لَا يَكُونُ عِنْدِي إِلَّا فِي الطَّعامِ يَعْنِي مَا لَمْ تَقْبِضْ، قَالَ إِسْحَاقُ: كَمَا قَالَ، فِي كُلِّ ما يُكَالُ أَوْ يُوزَنُ. قَالَ أَحْمَدُ: إِذَا قَالَ: أَبِيعُكَ هٰذَا الثَّوْبَ وَعَلَيَّ خِياطَتُهُ وقَصَارَتُهُ، فَهٰذَا مِنْ نَحْوِ شَرْطَيْنِ فِي بَيْعٍ، وَإِذَا قَالَ: أَبِيعُكَهُ، وعَلَيَّ خِياطَتُهُ فَلَا بَأْسَ بِهِ، وَقَالَ: أَبِيعُكَهُ وعَلَيَّ قَصَارَتُهُ فَلَا بَأْسَ بِهِ، إِنَّمَا هٰذَا شَرْطٌ وَاحِدٌ، قَالَ إِسْحَاقُ: كَمَا قَالَ.

1233. Hakīm bin Hizām narrated: "The Messenger of Allāh ﷺ prohibited me from selling what was not with me." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. He said: There is something on this topic from 'Abdullāh bin 'Umar.

Ishāq bin Mansūr said: "I said to Ahmad: 'What is the meaning of the prohibition from a loan along with a sale?' He said: 'That he gives him a loan and then he makes a sale to him greater then it's actual worth. And, it carries the meaning of him loaning it to him in exchange for something (as collateral), so he says: 'If you are unable to pay it (the loan), then it (the collateral) will be a sale for you.' Ishāq [meaning Ibn Rahuwyah] said as he said. And I said to Ahmad: 'What about selling what one does not possess?' He said: 'To me it does not apply except in cases of food – meaning when one has not taken possession of it.' And Ishāq said the same for all of what is measured or weighed. Ahmad said: 'When he says: "I will sell you this garment, with the condition that I am the tailor for it, and I am the one who bleaches it.' This is an example of two conditions in one sale. But if he says: "I am selling it to you with the

condition that I am its tailor," then there is no harm in it. And, if he said: "I am selling it to you with the condition that I am the one who bleaches it" then there is no harm in it, because this is only one condition.' And Isḥāq said as he said."

تخريج: [إسناده صحيح] وأخرجه أحمد: ٣/ ٤٠٢ من حديث أيوب السختياني به وانظر الحديث السابق * وفي الباب عن عبدالله بن عمر [وصوابه عبدالله بن عمرو كما في تحفة الأحوذي: ٢/ ٢٣٧ والنسخة الهندية، وحديثه يأتي بعده: ١٢٣٤].

١٢٣٤ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا أَيُّوبُ: حَدَّثَنَا عَمْرُو بْنُ شُعَيْبٍ قَالَ: حَدَّثَنِي أَبِي، عَنْ أَبِيهِ، حَتَّى ذَكَرَ عَبْدَ اللهِ بْنَ عَمْرٍو، أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا يَحِلُّ سَلَفٌ وَبَيْعٌ، ولَا شَرْطَانِ فِي بَيْعٍ، ولَا رِبْحُ مَا لَمْ يُضْمَنْ، ولَا بَيْعُ ما لَيْسَ عِنْدَكَ».

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ حَكِيمِ بْنِ حِزَامٍ حَدِيثٌ حَسَنٌ. قَدْ رُوِيَ عَنْهُ مِنْ غَيْرِ وَجْهٍ. ورَوَى أَيُّوبُ السَّخْتِيَانِيُّ وأَبُو بِشْرٍ، عَنْ يُوسُفَ بْنِ ماهَكَ، عَنْ حَكِيمِ بْنِ حِزَامٍ.

[قَالَ أَبُو عِيسَى:] وَرَوَى هٰذَا الْحَدِيثَ عَوْفٌ وهِشَامُ بْنُ حَسَّانَ، عَنِ ابْنِ سِيرِينَ عَنْ حَكِيمِ بْنِ حِزَامٍ عَنِ النَّبِيِّ ﷺ. وهٰذَا حَدِيثٌ مُرْسَلٌ. إِنَّمَا رَوَاهُ ابْنُ سِيرِينَ عَنْ أَيُّوبَ السَّخْتِيَانِيِّ، عَنْ يُوسُفَ بْنِ مَاهَكَ، عَنْ حَكِيمِ بْنِ حِزَامٍ هٰكَذَا.

1234. Ayyūb narrated: 'Amr bin Shu'aib narrated to us, saying: My father narrated to me from his father' until he mentioned 'Abdullāh bin 'Amr: "The Messenger of Allāh ﷺ said: 'It is not lawful to lend and sell, nor two conditions in a sale, nor to profit from what is not possessed, nor to sell what one does not have.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[Abū 'Eīsā said:] The *Ḥadīth* of Ḥakīm bin Ḥizām is a *Ḥasan Ḥadīth*, it has been reported from him through other routes. Ayyūb As-Sakhtiyānī and Abū Bishr report from Yūsuf bin Māhak, from Ḥakīm bin Ḥizām.

[Abū 'Eīsā said:] 'Awf and Hishām bin Ḥassān reported this *Ḥadīth* from Ibn Sīrīn, from Ḥakīm bin Ḥizām from the Prophet ﷺ. And this is a *Mursal Ḥadīth*. Ibn Sīrīn only reported it from Ayyūb As-Sikhtiyānī from Yūsuf bin Māhak, from Ḥakīm bin Ḥizām like this.

تخريج: [إسناده صحيح] وأخرجه أبو داود، البيوع، باب: في الرجل يبيع ما ليس عنده، ح:٣٥٠٤ وابن ماجه، ح:٢١٨٨ من حديث إسماعيل ابن علية به والنسائي، ح:٤٦١٥ من حديث أيوب، وصححه ابن الجارود، ح:٦٠١ والحاكم:٢/ ١٧ والذهبي.

١٢٣٥ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الخَلَّالُ وعَبْدَةُ بْنُ عَبْدِ اللهِ [الخُزَاعِيُّ البَصْرِيُّ أَبُو سَهْلٍ] وغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا عَبْدُ الصَّمَدِ ابْنُ عَبْدِ الْوَارِثِ عَنْ يَزِيدَ بْنِ إِبْرَاهِيمَ، عَنِ ابْنِ سِيرِينَ، عَنْ أَيُّوبَ، عَنْ يُوسُفَ بْنِ ماهَكَ، عَنْ حَكِيمِ [بْنِ حِزَامٍ] قَالَ: نَهانِي رَسُولُ اللهِ ﷺ أَنْ أَبِيعَ ما لَيْسَ عِنْدِي.

[قَالَ أَبُو عِيسَى:] وَرَوَى وَكِيعٌ هٰذَا الْحَدِيثَ عَنْ يَزِيدَ بْنِ إِبْرَاهِيمَ عَنِ ابْنِ سِيرِينَ، عَنْ أَيُّوبَ، عَنْ حَكِيمِ بْنِ حِزَامٍ. وَلَمْ يَذْكُرْ فِيهِ عَنْ يُوسُفَ بْنِ مَاهَكَ.

وَرِوَايَةُ عَبْدِ الصَّمَدِ أَصَحُّ.

وَقَدْ رَوَى يَحْيَى بْنُ أَبِي كَثِيرٍ هٰذَا الْحَدِيثَ عَنْ يَعْلَى بْنِ حَكِيمٍ، عَنْ يُوسُفَ بْنِ ماهَكَ، عَنْ عَبْدِ اللهِ بْنِ عِصْمَةَ، عَنْ حَكِيمِ بْنِ حِزامٍ، عَنِ النَّبِيِّ ﷺ، والْعَمَلُ عَلَى هٰذَا الحَدِيثِ عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ. كَرِهُوا أَنْ يَبِيعَ الرَّجُلُ ما لَيْسَ عِنْدَهُ.

تخريج: [إسناده صحيح] انظر، ح:١٢٣٢، ١٢٣٣.

1235. Ḥakīm [bin Ḥizām] narrated: "The Messenger of Allāh ﷺ prohibited me from selling what was not with me." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] Wakī' reported this *Ḥadīth* from Yazīd bin Ibrāhīm, from Ibn Sīrīn, from Ayyūb, from Ḥakīm bin Ḥizām, and he did not mention in it: "From Yūsuf bin Māhak."

And the narration of 'Abdus-Ṣamad (a narrator in the chain of *Ḥadīth* no. 1235) is more correct.

Yaḥya bin Abī Kathīr reported this *Ḥadīth* from Ya'lā bin Ḥakīm, from Yūsuf bin Māhak, from 'Abdullāh bin 'Iṣmah, from Ḥakīm bin Ḥizām, from the Prophet ﷺ.

This *Ḥadīth* is acted upon according to most of the people of knowledge, they dislike for a man to sell what is not with him.

Comments:

According to Imām Aḥmad's view it is related to grains only. It means that the grains which are not in possession, it is illegal to sell them. Imām Isḥāq says all things that are measured and weighed and are not in possession are included in it. In the view of Imām Ash-Shāfi'ī and Muḥammad, all the things which are not in possession are included in it. According to Imām Mālik it is not lawful to sell grains and fruits which are not in possession, and in the view of Imām Abū Ḥanīfah, all moveable property which is not in possession, its sale is unlawful. (See for details: *Sharḥ Muslim lin-Nawawī* v.2. p5)

Chapter 20. What Has Been Related About It Being Disliked To Sell *Walā'* And To Confer It[1]

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْوَلَاءِ وَهِبَتِهِ (التحفة ٢٠)

1236. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ prohibited selling the *Walā'* and conferring it." ***(Ṣaḥīḥ)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. We do not know of it except as a narration of 'Abdullāh bin Dīnār, from Ibn 'Umar.

This *Ḥadīth* is acted upon according to the people of knowledge.

Yaḥya bin Sulaim reported this *Ḥadīth* from 'Ubaidullāh bin 'Umar, from Nāfi' from Ibn 'Umar from the Prophet ﷺ, (saying) "That he prohibited selling the *Walā'* and conferring it."

But this is a mistake from Yaḥya bin Sulaim. Because 'Abdul-Wahhāb Ath-Thaqafī, 'Abdullāh bin Numair and others reported it from 'Ubaidullāh bin 'Umar, from 'Abdullāh bin Dīnār, from Ibn 'Umar, from the Prophet ﷺ. And this is more correct than the narration of Yaḥya bin Sulaim.

١٢٣٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ [قَالَ]: حَدَّثَنَا سُفْيَانُ وَشُعْبَةُ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ نَهَى عَنْ بَيْعِ الْوَلَاءِ وَهِبَتِهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ، وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ، وَقَدْ رَوَى يَحْيَى بْنُ سُلَيْمٍ هٰذَا الْحَدِيثَ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ: أَنَّهُ نَهَى عَنْ بَيْعِ الْوَلَاءِ وَهِبَتِهِ. وَهُوَ وَهْمٌ: وَهِمَ فِيهِ يَحْيَى بْنُ سُلَيْمٍ وَقَدْ رَوَى عَبْدُ الْوَهَّابِ الثَّقَفِيُّ وَعَبْدُ اللهِ بْنُ نُمَيْرٍ وَغَيْرُ وَاحِدٍ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ. وَهٰذَا أَصَحُّ مِنْ حَدِيثِ يَحْيَى بْنِ سُلَيْمٍ.

تخريج: متفق عليه، وأخرجه البخاري، العتق، باب بيع الولاء وهبته، ح:٢٥٣٥ من حديث شعبة و ح:٦٧٥٦ من حديث سفيان ومسلم، ح:١٥٠٦ من حديث شعبة وسفيان الثوري به.

Comments:

'Walā' is the relationship between a slave and the one who manumits. By this relationship one who gets freedom is considered the family member of the one who frees. If the freed slave dies without having any legal heir his property goes to the one who manumited him. Arabs before the advent of Islam used to sell or confer this relationship of *Walā*. The Prophet ﷺ prohibited it.

[1] *Al-Walā'* is the right for the one who freed a slave to inherit his or her property. It is not lawful to sell that right, nor give it to someone as a gift.

Chapter 21. What Has Been Related About It Being Disliked To Barter Animals For Animals On Credit

(المعجم ٢١) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً (التحفة ٢١)

1237. Samurah narrated: "The Messenger of Allāh ﷺ prohibited bartering animals for animals on credit." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Abbās, Jābir, and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Samurah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. It is correct that Al-Ḥasan heard from Samurah, this is what 'Alī bin Al-Madīnī and others said.

Regarding (the prohibition of) bartering animals for animals on credit, this is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others. This is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah, and it is the view of Aḥmad.

Some of the people of knowledge, among the Companions of the Prophet ﷺ and others, permitted bartering animals for animals on credit. This is the view of Ash-Shāfi'ī and Isḥāq.

١٢٣٧ - حَدَّثَنَا مُحَمَّدُ بْنُ مُثَنَّى أَبُو مُوسَى: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وجَابِرٍ وابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ سَمُرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَسَمَاعُ الْحَسَنِ مِنْ سَمُرَةَ صَحِيحٌ. هٰكَذَا قَالَ عَلِيُّ بْنُ الْمَدِينِيِّ وَغَيْرُهُ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، فِي بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وأَهْلِ الْكُوفَةِ، وبِهِ يَقُولُ أَحْمَدُ وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ فِي بَيْعِ الْحَيَوَانِ بِالْحَيَوَانِ نَسِيئَةً، وهُوَ قَوْلُ الشَّافِعِيِّ وَإِسْحَاقَ.

تخريج: [صحيح] وأخرجه أبو داود، البيوع، باب: في الحيوان بالحيوان نسيئةً، ح:٣٣٥٦ من حديث حماد بن سلمة به وصححه ابن الجارود، ح:٦١١ ورواه شعبة عن قتادة به وللحديث شواهد عند ابن حبان، ح:١١١٣ * وفي الباب عن ابن عباس [البيهقي:٥/٢٨٨، ٢٨٩] وجابر [يأتي:١٢٣٨] وابن عمر [الطحاوي في معاني الآثار: ٤/ ٦٠].

1238. Jābir narrated that the Messenger of Allāh ﷺ said: "Animals [two for one] are not

١٢٣٨ - حَدَّثَنَا أَبُو عَمَّارٍ الْحُسَيْنُ بْنُ حُرَيْثٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ عَنِ الْحَجَّاجِ

- وَهُوَ ابْنُ أَرْطَاةَ - عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْحَيَوَانُ [اثْنَانِ بِوَاحِدٍ]، لَا يَصْلُحُ نسِيئًا، وَلَا بَأْسَ بِهِ يَدًا بِيَدٍ».

هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ].

proper on credit, and there is no harm in a hand to hand (exchange)." (*Ḍa'īf*)

This *Hadīth* is *Hasan* [*Sahīh*].

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، التجارات، باب الحيوان بالحيوان نسيئةً، ح: ٢٢٧١ من حديث الحجاج بن أرطاة به وهو ضعيف مدلس، والحديث السابق يغني عن حديثه.

Comments:

There is a narration in *Ṣaḥīḥ Al-Bukharī* that the Prophet ﷺ bought a camel on credit from a Bedouin and later on returned a better camel to him. Imām Bukharī has written a 'Chapter on Loan of Camels'. It proves that an animal can be bartered on credit. According to Ḥāfiẓ Ibn Ḥajar most of the people of knowledge act upon this narration.

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي شِرَاءِ الْعَبْدِ بِالْعَبْدَيْنِ (التحفة ٢٢)

Chapter 22. What Has Been Related About Buying A Slave In Exchange For Two Slaves

١٢٣٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: جَاءَ عَبْدٌ فَبَايَعَ النَّبِيَّ ﷺ عَلَى الْهِجْرَةِ، وَلَا يَشْعُرُ النَّبِيُّ ﷺ أَنَّهُ عَبْدٌ، فَجَاءَ سَيِّدُهُ يُرِيدُهُ، فَقَالَ النَّبِيُّ ﷺ: «بِعْنِيهِ».

فَاشْتَرَاهُ بِعَبْدَيْنِ أَسْوَدَيْنِ، ثُمَّ لَمْ يُبَايِعْ أَحَدًا بَعْدُ، حَتَّى يَسْأَلَهُ: «أَعَبْدٌ هُوَ؟».

[قَالَ:] وَفِي الْبَابِ عَنْ أَنَسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، أَنَّهُ لَا بَأْسَ بِعَبْدٍ بِعَبْدَيْنِ، يَدًا بِيَدٍ، واخْتَلَفُوا فِيهِ إِذَا كَانَ نَسِيئًا.

1239. Jābir narrated: "A slave came to give the pledge to the Prophet ﷺ for *Hijrah*, but the Prophet ﷺ did not realize that he was a slave. So his master came to get him and the Prophet ﷺ said: 'Sell him to me.' So he purchased him for two black slaves. Then he would not take the pledge from anyone until he asked him if he was a slave." (***Sahīh***)

[He said:] There is something on this topic from Anas.

[Abū 'Eīsā said:] The *Hadīth* of Jābir is a *Hasan Sahīh Hadīth*. This is acted upon according to the people of knowledge. There is no harm in a slave for two slaves in a hand to hand exchange, but they differ when it is on credit.

تخريج: وأخرجه مسلم، المساقاة، باب جواز بيع الحيوان بالحيوان، من جنسه، متفاضلاً، ح:١٦٠٢ عن قتيبة به * وفي الباب عن أنس [ابن ماجه، ح:٢٢٧٢ وأبو داود، ح:٢٩٩٧ وأصله متفق عليه].

Chapter 23. What Has Been Related About That Wheat Is To Be Exchanged For Wheat, Kind For Kind, And That An Increase In It Is Disliked

(المعجم ٢٣) - بَابُ ما جَاءَ أَنَّ الْحِنْطَةَ بِالْحِنْطَةِ مِثْلًا بِمِثْلٍ وَكَرَاهِيَةُ التَّفَاضُلِ فِيهِ (التحفة ٢٣)

1240. 'Ubādah bin Aṣ-Ṣāmit narrated that the Prophet ﷺ said: "Gold for gold, kind for kind; silver for silver, kind for kind; dried-dates for dried-dates, kind for kind; wheat for wheat, kind for kind; salt for salt, kind for kind; and barley for barley, kind for kind. Whoever increases or seeks an increase, then he has dealt with *Ribā*. Sell gold for silver as you wish, hand to hand; and sell wheat for dried-dates as you wish, hand to hand; and sell barley for dried-dates as you wish, hand to hand." **(*Ṣaḥīḥ*)**

[He said:] There are narrations on this topic from Abū Sa'eed, Abū Hurairah, Bilāl, [and Anas].

[Abū 'Eīsā said:] The *Ḥadīth* of 'Ubādah bin Aṣ-Ṣāmit is *Ḥasan Ṣaḥīḥ*. Some of them reported this *Ḥadīth* from Khālid, with this chain, and he said: "Sell wheat for barley as you wish, hand to hand."

Some of them reported this *Ḥadīth* from Khālid, from Abū Qilābah, from Ash'ath, from 'Ubādah from the Prophet ﷺ. In that *Ḥadīth*, they added that Khālid said: "Abū Qilābah said: "Sell wheat for barley as you wish, hand to hand."

This *Ḥadīth* is acted upon

١٢٤٠ - حَدَّثَنَا سُوَيْدُ بْنُ نَصْرٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا سُفْيَانُ عَنْ خَالِدٍ الْحَذَّاءِ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي الأَشْعَثِ، عَنْ عُبَادَةَ بْنِ الصَّامِتِ عَنِ النَّبِيِّ ﷺ قَالَ: «الذَّهَبُ بِالذَّهَبِ مِثْلًا بِمِثْلٍ والْفِضَّةُ بِالْفِضَّةِ مِثْلًا بِمِثْلٍ، والتَّمْرُ بِالتَّمْرِ مِثْلًا بِمِثْلٍ، والْبُرُّ بِالْبُرِّ مِثْلًا بِمِثْلٍ، والْمِلْحُ بِالْمِلْحِ مِثْلًا بِمِثْلٍ، والشَّعِيرُ بِالشَّعِيرِ مِثْلًا بِمِثْلٍ. فَمَنْ زَادَ أَوِ ازْدَادَ فَقَدْ أَرْبَى، بِيعُوا الذَّهَبَ بِالْفِضَّةِ كَيْفَ شِئْتُمْ، يَدًا بِيَدٍ، وبِيعُوا الْبُرَّ بِالتَّمْرِ كَيْفَ شِئْتُمْ يَدًا بِيَدٍ، وبِيعُوا الشَّعِيرَ بِالتَّمْرِ كَيْفَ شِئْتُمْ يَدًا بِيَدٍ».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي سَعِيدٍ وأَبِي هُرَيْرَةَ وبِلَالٍ [وأَنَسٍ].

[قَالَ أَبُو عِيسَى:] حَدِيثُ عُبَادَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وقَدْ رَوَى بَعْضُهُمْ هٰذَا الْحَدِيثَ عَنْ خَالِدٍ بِهٰذَا الإِسْنَادِ، قَالَ: «بِيعُوا الْبُرَّ بِالشَّعِيرِ كَيْفَ شِئْتُمْ يَدًا بِيَدٍ».

وَرَوَى بَعْضُهُمْ هٰذَا الْحَدِيثَ عَنْ خَالِدٍ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي الأَشْعَثِ، عَنْ عُبَادَةَ عَنِ النَّبِيِّ ﷺ الحَدِيثَ، وَزَادَ فِيهِ قَالَ خَالِدٌ:

قَالَ أَبُو قِلَابَةَ: بِيعُوا الْبُرَّ بِالشَّعِيرِ كَيْفَ شِئْتُمْ فَذَكَرَ الحَدِيثَ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، لَا يَرَوْنَ أَنْ يُبَاعَ الْبُرُّ بِالْبُرِّ إِلَّا مِثْلًا بِمِثْلٍ، وَالشَّعِيرُ بِالشَّعِيرِ إِلَّا مِثْلًا بِمِثْلٍ، فَإِذَا اخْتَلَفَ الأَصْنَافُ فَلَا بَأْسَ أَنْ يُبَاعَ مُتَفَاضِلًا إِذَا كَانَ يَدًا بِيَدٍ، وَهٰذَا قَوْلُ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَالشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ. وقَالَ الشَّافِعِيُّ: وَالحُجَّةُ فِي ذٰلِكَ قَوْلُ النَّبِيِّ ﷺ: «بِيعُوا الشَّعِيرَ بِالبُرِّ كَيْفَ شِئْتُمْ، يَدًا بِيَدٍ».

according to the people of knowledge, they do not think that one may sell wheat for wheat except when it is the same kind for the same kind, and (the same for) barely in exchange for barely, kind for kind. When the items are themselves different, then there is no harm in one being more than the other if it is hand to hand. This is the saying of most of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Sufyān Ath-Thawrī, Ash-Shāfi‘ī, Aḥmad, and Isḥāq. Ash-Shāfi‘ī said: “And the proof for that is the saying of the Prophet ﷺ: ‘Sell barely for wheat as you wish, hand to hand.’”

[قَالَ أَبُو عِيسَى:] وَقَدْ كَرِهَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ أَنْ تُبَاعَ الحِنْطَةُ بِالشَّعِيرِ إِلَّا مِثْلًا بِمِثْلٍ، وَهُوَ قَوْلُ مالِكِ بْنِ أَنَسٍ، وَالقَوْلُ الأَوَّلُ أَصَحُّ.

[Abū ‘Eīsā said:] Some of the people of knowledge considered it disliked that wheat be sold for barely unless it was kind for kind. This is the view of Mālik bin Anas, but the first view is more correct.

تخريج: وأخرجه مسلم، المساقاة، باب الصرف وبيع الذهب بالورق نقدًا، ح:١٥٨٧ من حديث سفيان الثوري به * وفي الباب عن أبي سعيد [يأتي:١٢٤١] وأبي هريرة [مسلم، ح:١٥٨٨] وبلال [الدارمي، ح:٢٥٧٩] وأنس [البزار (كشف الأستار):٢/١٠٩، ح:١٣١٩].

Comments:

Ribā (Usury or Interest) is of two kinds. a) Direct and b) Indirect. The example of direct *Ribā* is very clear, it is to take money or anything else on loan and settle the terms and conditions of return in advance and to agree by both parties to pay more than the original loan taken, or to return a better thing than the thing taken on loan. This is unlawful. The second kind of *Ribā* is indirect interest for which the narration in the chapter has the basic standing. *Ribā* means increase. Exchange of one kind of grain with the same kind of grain with some addition is because it resembles the Direct Interest, therefore, it has been declared unlawful. (See for details: *Hujjatullāh Al-Bālighah* v.2. p.106 - 107.)

Chapter 24. What Has Been Related About Exchange

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي الصَّرْفِ (التحفة ٢٤)

1241. Nāfi' narrated: "Ibn 'Umar and I went to Abū Sa'eed and he narrated to us: 'the Messenger of Allāh ﷺ said – and I heard him with these [two] ears: "Do not sell gold for gold except kind for kind, nor silver for silver except kind for kind, do not exchange more of one than the other, and do not sell what is not present from them for what is present." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Bakr, 'Umar, 'Uthmān, Abū Hurairah, Hishām bin 'Āmir, Al-Barā', Zaid bin Arqam, Faḍālah bin 'Ubaid, Abū Bakrah, Ibn 'Umar, Abū Ad-Dardā', and Bilāl.

[He said:] the *Ḥadīth* of Abū Sa'eed, from the Prophet ﷺ [about *Ribā*] is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others, except for what has been related from Ibn 'Abbās; he did not see any harm in exchanging gold for gold or silver for silver, more for less, when it is done hand to hand, and he said: "*Ribā* is only in credit." Similar has been related from some of his companions. It has been related that Ibn 'Abbās changed his opinion when Abū Sa'eed narrated it to him from the Prophet ﷺ. The first view is more correct.

And this is acted upon according to the people of knowledge [among the

١٢٤١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا حُسَيْنُ بْنُ مُحَمَّدٍ: حَدَّثَنَا شَيْبَانُ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ نَافِعٍ، قَالَ: انْطَلَقْتُ أَنَا وابْنُ عُمَرَ إِلَى أَبِي سَعِيدٍ، فَحَدَّثَنَا: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: سَمِعَتْهُ أُذُنَايَ [هَاتَانِ] يَقُولُ: «لَا تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلَّا مِثْلًا بِمِثْلٍ، وَالْفِضَّةَ بِالفِضَّةِ إِلَّا مِثْلًا بِمِثْلٍ، لَا يُشَفُّ بَعْضُهُ عَلَى بَعْضٍ، وَلَا تَبِيعُوا مِنْهُ غائِبًا بِنَاجِزٍ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي بَكْرٍ وَعُمَرَ وَعُثْمَانَ وَأَبِي هُرَيْرَةَ وَهِشَامِ بْنِ عَامِرٍ وَالبَرَاءِ وَزَيْدِ بْنِ أَرْقَمَ وَفَضَالَةَ بْنِ عُبَيْدٍ وأَبِي بَكْرَةَ وابْنِ عُمَرَ وأَبِي الدَّرْدَاءِ وَبِلَالٍ [قَالَ: وَ]حَدِيثُ أَبِي سَعِيدٍ عَنِ النَّبِيِّ ﷺ [فِي الرِّبَا] حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، إِلَّا مَا رُوِيَ عَنِ ابْنِ عَبَّاسٍ: أَنَّهُ كَانَ لَا يَرَى بَأْسًا أَنْ يُبَاعَ الذَّهَبُ بِالذَّهَبِ مُتَفَاضِلًا، والفِضَّةُ بِالفِضَّةِ مُتَفَاضِلًا، إِذَا كَانَ يَدًا بِيَدٍ، وَقَالَ: إِنَّمَا الرِّبَا فِي النَّسِيئَةِ، وكَذَلِكَ رُوِيَ عَنْ بَعْضِ أَصْحَابِهِ شَيْءٌ مِنْ هذَا، وَقَدْ رُوِيَ عَنِ ابْنِ عَبَّاسٍ أَنَّهُ رَجَعَ عَنْ قَوْلِهِ حِينَ حَدَّثَهُ أَبُو سَعِيدٍ الخُدْرِيُّ عَنِ النَّبِيِّ ﷺ، وَالْقَوْلُ الأَوَّلُ أَصَحُّ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ العِلْمِ [مِنْ أَصْحَابِ النَّبِيِّ

Companions of the Prophet ﷺ and others]. It is the view of Sufyān Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, Aḥmad, and Isḥāq. It has been reported that Ibn Al-Mubārak said: "There no difference over exchange."

ﷺ وَغَيْرِهِمْ] وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وابْنِ الْمُبَارَكِ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ. وَرُوِيَ عَنِ ابْنِ الْمُبَارَكِ أَنَّهُ قَالَ: لَيْسَ فِي الصَّرْفِ اخْتِلَافٌ.

تخريج: [إسناده صحيح] وأخرجه أحمد:٣/ ٧٣ من حديث يحيى بن أبي كثير، ومسلم، ح:١٥٨٤ من حديث نافع، والبخاري، ح:٢١٧٦ من طريق آخر عن ابن عمر به و ح:٢١٧٧ من حديث نافع به * وفي الباب عن أبي بكر [البزار (كشف الأستار):٢/ ١٠٩، ح:١٣١٨] وعمر [يأتي:١٢٤٣] وعثمان [مسلم، ح:١٥٨٥] وأبي هريرة [مسلم، ح:١٥٨٨] وهشام بن عامر [أحمد:٤/ ١٩، ٢٠] البراء [البخاري، ح:٢١٨٠، ٢١٨١ ومسلم، ح:١٥٨٩] وزيد بن أرقم [البخاري، ح:٢١٨٠، ٢١٨١ ومسلم:١٥٨٩ وأحمد: ٤/ ٣٦٨، ٣٧٢] وفضالة بن عبيد [مسلم، ح:١٥٩١] وأبي بكرة [البخاري، ح:٢١٨٢ ومسلم، ح:١٥٩٠] وابن عمر [يأتي:١٢٤٢] وأبي الدرداء [مالك في الموطأ:٢/ ٦٣٤ والنسائي، ح:٤٥٧٦] وبلال [الدارمي، ح:٢٥٧٩].

Comments:

"Lā Yushaffu" means making an increase or decrease during exchange. And *"Nājiz"* means present. Exchange of gold with silver, or silver with gold, or gold with gold, and silver with silver, on credit, is not lawful. It is unanimously agreed upon. An exchange of the same kind with increase or decrease is also unlawful. The command of the Prophet ﷺ is that *"Ribā* is in loan." It means taking a loan and returning it with increase in it. This type of exchange was customary among the people of that time. The Prophet ﷺ disapproved it and declared it unlawful. If the kind is not the same in the exchange there can be increase or decrease in it, and it is approved, but if the deal of exchange is on credit, it is unlawful.

1242. Ibn 'Umar narrated: "I would sell camels at Al-Baqī', so I would sell them for Dinar but take in place of them Dirham, and, I would sell for silver and take Dinar in its place. So I went to the Messenger of Allāh ﷺ and found him leaving the house of Ḥafṣah. I asked him about that and he said: 'There is no harm in that when it (equals) the price.'" (***Hasan***)

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* being *Marfū'* except from the narration of Simāk bin

١٢٤٢ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الخَلَّالُ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عُمَرَ قَالَ: كُنْتُ أَبِيعُ الإِبِلَ بِالبَقِيعِ، فَأَبِيعُ بِالدَّنَانِيرِ، فآخُذُ مَكَانَهَا الوَرِقَ وأَبِيعُ بالوَرِقِ فَآخُذُ مَكانَهَا الدَّنَانِيرَ، فَأَتَيْتُ رَسُولَ اللهِ ﷺ، فَوَجَدْتُهُ خَارِجًا مِنْ بَيْتِ حَفْصَةَ، فَسَأَلْتُهُ عَنْ ذَلِكَ فَقَالَ: «لَا بَأْسَ بِهِ بِالقِيمَةِ».

Ḥarb from Sa'eed bin Jubair, from Ibn 'Umar.

Dāwūd bin Abī Hind narrated this *Ḥadīth* form Sa'eed bin Jubair, from Ibn 'Umar in *Mawqūf* form.

This is acted upon according to some of the people of knowledge. There is no harm in paying for gold with silver and silver with gold. This is the view of Aḥmad and Isḥāq. Some of the people of knowledge, among the Companions and others, disliked that.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ سِمَاكِ بْنِ حَرْبٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عُمَرَ. وَرَوَى دَاوُدُ بْنُ أَبِي هِنْدٍ هٰذَا الْحَدِيثَ عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عُمَرَ، مَوْقُوفًا. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ أَنْ لَا بَأْسَ أَنْ يَقْتَضِيَ الذَّهَبَ مِنَ الْوَرِقِ، والْوَرِقَ مِنَ الذَّهَبِ، وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ. وَقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، ذٰلِكَ.

تخريج: [إسناده حسن] وأخرجه أبو داود، البيوع، باب: في اقتضاء الذهب من الورق، ح:٣٣٥٤ من حديث حماد بن سلمة به وصححه ابن حبان، ح:١١٢٨ وابن الجارود، ح:٦٥٥ والحاكم على شرط مسلم:٢/ ٤٤ ووافقه الذهبي.

Comments:

All *A'immah*, Mālik, Abū Ḥanīfah, Shāfi'ī, Aḥmad, Ath-Thawrī, Al-Awzā'ī and Ḥasan, and others, agree and approve if a thing is sold in Dinar, and Dihrams are taken instead of Dinar, or vice versa, but the deal must be hand to hand. If the deal is on credit, it is unlawful.

1243. Ibn Shihāb narrated from Mālik bin Aws bin Ḥadathān that he said: "I once said: 'Who can change some Dirham?' So Ṭalḥah bin 'Ubaidullāh – and he was with 'Umar bin Al-Khaṭṭāb – said: "Leave your gold with us, then return to us when our servant comes and we will give you your silver." 'Umar bin Al-Khaṭṭāb said: "No! By Allāh! Either give him his silver or return his gold to him. Indeed the Messenger of Allāh ﷺ said: 'Silver for gold is *Ribā*, except for hand to hand; and wheat for wheat is *Ribā* except for hand to hand; and barley for barley is *Ribā* except for hand to hand; and dried-dates for dried-dates is *Ribā* except

١٢٤٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ مَالِكِ بْنِ أَوْسِ بْنِ الْحَدَثَانِ، أَنَّهُ قَالَ: أَقْبَلْتُ أَقُولُ: مَنْ يَصْطَرِفُ الدَّرَاهِمَ؟ فَقَالَ طَلْحَةُ بْنُ عُبَيْدِ اللهِ - وَهُوَ عِنْدَ عُمَرَ بْنِ الْخَطَّابِ -: أَرِنَا ذَهَبَكَ ثُمَّ ائْتِنَا إِذَا جَاءَ خَادِمُنَا نُعْطِكَ وَرِقَكَ، فَقَالَ عُمَرُ بْنُ الْخَطَّابِ: كَلَّا، وَاللهِ لَتُعْطِيَنَّهُ وَرِقَهُ أَوْ لَتَرُدَّنَّ إِلَيْهِ ذَهَبَهُ، فَإِنَّ رَسُولَ اللهِ ﷺ قَالَ: «الْوَرِقُ بِالذَّهَبِ رِبًا إِلَّا هَاءَ وَهَاءَ، وَالْبُرُّ بِالْبُرِّ رِبًا إِلَّا هَاءَ وَهَاءَ، وَالشَّعِيرُ بِالشَّعِيرِ رِبًا إِلَّا هَاءَ وَهَاءَ، والتَّمْرُ بِالتَّمْرِ رِبًا إِلَّا هَاءَ وهَاءَ».

for hand to hand.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge. And the meaning of *Hā' Wa Hā'* is hand to hand.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، وَمَعْنَى قَوْلِهِ إِلَّا هَاءَ وَهَاءَ يَقُولُ يَدًا بِيَدٍ.

تخريج: وأخرجه مسلم، المساقاة، باب الصرف وبيع الذهب بالورق نقدًا، ح:١٥٨٦/٧٩ عن قتيبة، والبخاري، ح:٢١٧٠ من حديث الليث بن سعد به مختصرًا، ح:٢١٧٤ ومطولاً.

Comments:

Nowadays, paper currency is in circulation instead of Dirham and Dinar, so their exchange comes under the orders of gold and silver. Currency of one country will be dealt on equal basis with the currency of another country. Taking or giving one hundred rupees (for example) in place of a lesser or greater amount of rupees is unlawful because it resembles *Ribā*. The currency of different countries can be exchanged with increase or decrease as in the exchange of Dollar or Pound or Riyal. This exchange is lawful because the kind is not the same. This exchange will be hand to hand and not on credit.

Chapter 25. What Has Been Related About Purchasing Date-Palms After Pollination And A Slave That Has Property

(المعجم ٢٥) - بَابُ مَا جَاءَ فِي ابْتِيَاعِ النَّخْلِ بَعْدَ التَّأْبِيرِ، وَالْعَبْدِ وَلَهُ مَالٌ (التحفة ٢٥)

1244. Sālim narrated from his father that the Messenger of Allāh ﷺ said: "Whoever purchases a date-palm after it has been pollinated then its fruits are for the one who sold it, unless the buyer made it a condition. And whoever purchases a slave who has property, then his property is for the one who sold him, unless the buyer made it a condition." (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Jābir. The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Similarly, it has been reported by more than one route from Az-Zuhrī, from Sālim, from Ibn 'Umar, that the Prophet ﷺ said:

١٢٤٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ سَالِمٍ، عَنْ أَبِيهِ قَالَ: سِمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنِ ابْتَاعَ نَخْلًا بَعْدَ أَنْ تُؤَبَّرَ فَثَمَرَتُهَا لِلَّذِي بَاعَهَا، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ، وَمَنِ ابْتَاعَ عَبْدًا وَلَهُ مَالٌ فمالُهُ لِلَّذِي بَاعَهُ، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ».

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ. [وَ]حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. هٰكَذَا رُوِيَ مِنْ غَيرِ وَجْهٍ عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «مَنِ ابْتَاعَ نَخْلًا بَعْدَ أَنْ تُؤَبَّرَ فَثَمَرَتُهَا لِلْبَائِعِ إِلَّا أَنْ يَشترِطَ الْمُبْتَاعُ، ومَنْ بَاعَ عَبْدًا ولَهُ مَالٌ فَمَالُهُ

للبائع، إلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ». و[قَدْ] رُوِيَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنِ ابْتَاعَ نَخْلًا قَدْ أُبِّرَتْ فَثَمَرَتُهَا لِلْبَائِعِ، إلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ».

و[قَدْ] رُوِيَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنْ عُمَرَ، أَنَّهُ قَالَ: مَنْ بَاعَ عَبْدًا ولَهُ مَالٌ، فَمَالُهُ لِلْبَائِعِ إلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ. هٰكَذَا رَوَاه عُبَيْدُ اللهِ بْنُ عُمَرَ وغَيْرُهُ عَنْ نَافِعٍ، الْحَدِيثَيْنِ.

وقَدْ رَوَى بَعْضُهُمْ هٰذَا الْحَدِيثَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ أَيْضًا.

ورَوَى عِكْرِمَةُ بْنُ خَالِدٍ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ نَحْوَ حَدِيثِ سَالِمٍ. والْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ.

قَالَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ: حَدِيثُ الزُّهْرِيِّ عَنْ سَالِمٍ عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ، أَصَحُّ [مَا جَاءَ فِي هٰذَا الْبَابِ].

"Whoever purchases a date-palm after it has been pollinated, then its fruits are for the seller, unless the buyer made it a condition. And whoever purchases a slave who has property, then his property is for the seller, unless the buyer made it a condition." And it has been reported from Nāfi', from Ibn 'Umar, that the Prophet ﷺ said: "Whoever purchases a date-palm that has been pollinated, then its fruits are for the seller, unless the buyer made it a condition."

It has been reported from Nāfi', from Ibn 'Umar from 'Umar, that he ﷺ said: "Whoever sold a slave who has property, his property is for the seller, unless the buyer made it a condition." This is how the two *Aḥādīth* were reported by 'Ubaidullāh bin 'Umar and others from Nāfi'.

Some of them have also reported this *Ḥadīth* from Nāfi', from Ibn 'Umar, from the Prophet ﷺ.

'Ikrimah bin Khālid reported similar to the *Ḥadīth* of Sālim, from Ibn 'Umar, from the Prophet ﷺ.

This *Ḥadīth* is acted upon according to some of the people of knowledge. It is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq.

Muḥammad bin Ismā'īl said: "The *Ḥadīth* of Az-Zuhrī from Sālim, from his father, from the Prophet ﷺ is the most correct [of what has been reported on this topic]."

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب من باع نخلاً عليها تمر، ح:١٥٤٣/ ٨٠ عن قتيبة والبخاري، ح:٢٣٧٩ من حديث الليث بن سعد به * وفي الباب عن جابر [لعله يشير إلى حديث مسلم، ح:١٥٣٦ وفي الباب أحاديث أخرى].

Comments:

"Tu'abbar" means pollination. In the time of the Prophet ﷺ people used to take more produce with artificial pollination, as today trees are grafted to have more produce.

Chapter 26. What Has Been Related About 'Both The Buyer And The Seller Retain The Option As Long As They Have Not Separated'

(المعجم ٢٦) - بَابُ مَا جَاءَ: الْبَيِّعَانِ بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا (التحفة ٢٦)

1245. Nāfi' narrated from Ibn 'Umar, that the Messenger of Allāh ﷺ said: "Both the buyer and the seller retain the option as long as they have not separated or they give each other the option."

He (Nāfi') said: "So when Ibn 'Umar purchased something while he was sitting, he would stand to complete the sale." (***Saḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Barzah, [Ḥakīm bin Ḥizām], 'Abdullāh bin 'Amr, Samurah, Abū Hurairah, and 'Abdullāh bin 'Abbās.

Abū 'Eīsā said: The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq, they said: "The separation means parting, not in speech."

Some of the people of knowledge held the view that the saying of the Prophet ﷺ: "As long as they have not separated" means making a separation in speech.[1] But the

١٢٤٥ - حَدَّثَنَا وَاصِلُ بْنُ عَبْدِ الأَعْلَى الْكُوفِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ فُضَيْلٍ عَنْ يَحْيَى ابْنِ سَعِيدٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «الْبَيِّعَانِ بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا أَوْ يَخْتَارَا».

قَالَ: فَكَانَ ابْنُ عُمَرَ إِذَا ابْتَاعَ بَيْعًا وهُوَ قَاعِدٌ، قَامَ لِيَجِبَ لَهُ [الْبَيْعُ].

[**قَالَ أَبُو عِيسَى**:] وَفِي الْبَابِ عَنْ أَبِي بَرْزَةَ [وَحَكِيمِ بْنِ حِزَامٍ] وعَبْدِ اللهِ بْنِ عَمْرٍو وسَمُرَةَ وأَبِي هُرَيْرَةَ وعَبْدِ اللهِ بْنِ عَبَّاسٍ.

قَالَ أَبُو عِيسَى: حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ. وهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ، وقَالُوا: الْفُرْقَةُ بِالأَبْدَانِ لَا بِالْكَلَامِ.

وقَدْ قَالَ بَعْضُ أَهْلِ الْعِلْمِ: مَعْنَى قَوْلِ النَّبِيِّ ﷺ: «مَا لَمْ يَتَفَرَّقَا» يَعْنِي الْفُرْقَةَ بِالْكَلَامِ، وَالْقَوْلُ الأَوَّلُ أَصَحُّ، لِأَنَّ ابْنَ عُمَرَ هُوَ رَوَى عَنْ رَسُولِ اللهِ ﷺ، وهُوَ أَعْلَمُ

[1] Meaning when the seller says: "Sold" or the buyer says something similar.

بِمَعْنَى مَا رَوَى. وَرُوِيَ عَنْهُ: أَنَّهُ كَانَ إِذَا أَرَادَ أَنْ يُوجِبَ الْبَيْعَ، مَشَى لِيَجِبَ لَهُ.

first view is more correct, because Ibn 'Umar – who narrated it from the Messenger of Allāh ﷺ – is more knowledgeable about the meaning of what he narrated, and it is reported that when he wanted to conclude a sale, he would walk away to conclude it.

تخريج: متفق عليه، وأخرجه البخاري، البيوع، باب: كم يجوز الخيار؟، ح:٢١٠٧ ومسلم، ح:١٥٣١ من حديث يحيى بن سعيد به * وفي الباب عن أبي برزة [أبو داود، ح:٣٤٥٧] وحكيم ابن حزام [يأتي:١٢٤٦] وعبدالله بن عمرو [يأتي:١٢٤٧] وسمرة [ابن ماجه، ح:٢١٨٣ والنسائي:٧/ ٢٥١، ح:٤٤٨٢] وأبي هريرة [يأتي:١٢٤٨] وعبدالله بن عباس [ابن حبان، ح:١١٠٠ والبيهقي:٥/ ٢٧٠ والحاكم:٢/ ١٤].

Comments:

A bargain is not considered complete until the consent is given from both sides. There is the possibility of cancellation until the bargain is finished and agreed upon by both the parties. After giving the consent both the parties keep the right of cancellation of the deal as long as they are present at the place where the deal is taking place but if one of the parties, or both of them, left the place, they loose the right of cancellation and the deal is sealed.

١٢٤٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ شُعْبَةَ: حَدَّثَنِي قَتَادَةُ، عَنْ صَالِحٍ أَبِي الْخَلِيلِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ، عَنْ حَكِيمِ بْنِ حِزَامٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْبَيِّعَانِ بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا، فَإِنْ صَدَقَا وَبَيَّنَا، بُورِكَ لَهُمَا فِي بَيْعِهِمَا، وَإِنْ كَتَمَا وَكَذَبَا مُحِقَتْ بَرَكَةُ بَيْعِهِمَا».

وَهٰذَا حَدِيثٌ صَحِيحٌ.

وَهٰكَذَا رُوِيَ عَنْ أَبِي بَرْزَةَ الْأَسْلَمِيِّ: أَنَّ رَجُلَيْنِ اخْتَصَمَا إِلَيْهِ فِي فَرَسٍ بَعْدَ مَا تَبَايَعَا، وَكَانُوا فِي سَفِينَةٍ، فَقَالَ: لَا أَرَاكُمَا افْتَرَقْتُمَا، وَقَالَ رَسُولُ اللهِ ﷺ: «الْبَيِّعَانِ

1246. Ḥakīm bin Ḥizām narrated that the Messenger of Allāh ﷺ said: "Both the buyer and the seller retain the opition as long as they have not separated. If they spoke the truth and clarified (any defects or conditions), then they would be blessed in their sale, and if they hid something and lied then their sale would be deprived of blessings." (*Ṣaḥīḥ*)

And this is a Ṣaḥīḥ Ḥadīth.

This is how it was reported from Abū Barzah Al-Aslamī, that two men came disputing to him after the sale of a horse, and they were on a ship, so he said: "I did not see the two of you separate, and the Messenger of Allāh ﷺ said: 'The buyer and the seller retain the choice as long as they did not

separate.'"

Some of the people of knowledge, among the people of Al-Kūfah and others, held the view that the separation refers to speech. This is the saying of [Sufyān] Ath-Thawrī. This has been reported from Mālik bin Anas, and it has been reported from Ibn Al-Mubārak that he said: "How could this be refuted?" And the *Hadīth* about it from the Prophet ﷺ is *Sahīhh*, and it strenghtens this view.

And the meaning of the saying of the Prophet ﷺ: "Except for the opitional sale" is, that (while they are still together) the seller gives the buyer the option to cancel after the conclusion of the sale. If he chooses to agree to the sale, then he does not have the choice to cancel the sale after that, even if they did not separate. This is how Ash-Shāfi'ī and others explained it. And what strengthens the view of those who said that the seperation refers to them parting, (and) it does not refer to speech, is the (following) *Hadīth* of 'Abdullāh bin 'Amr from the Prophet ﷺ.

بِالْخِيَارِ مَا لَمْ يَتَفَرَّقَا».

وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَهْلِ الكُوفَةِ وغَيْرِهِمْ، إِلَى أَنَّ الْفُرْقَةَ بالكَلَامِ، وهُوَ قَوْلُ [سُفْيَانَ] الثَّوْرِيِّ.

وَهكذَا رُوِيَ عَنْ مالِكِ بْنِ أَنَسٍ، وَرُوِيَ عَنِ ابْنِ الْمُبَارَكِ أَنَّهُ قَالَ: كَيْفَ أَرُدُّ هذا؟ والْحَدِيثُ فِيهِ عَنِ النَّبِيِّ ﷺ صَحِيحٌ وَقَوَّى هٰذَا الْمَذْهَبَ.

وَمَعْنَى قَوْلِ النَّبِيِّ ﷺ: «إِلَّا بَيْعَ الْخِيَارِ» مَعْنَاهُ أَنْ يُخَيِّرَ الْبَائِعُ الْمُشْتَرِيَ بَعْدَ إِيجَابِ الْبَيْعِ، فَإِذَا خَيَّرَهُ فاخْتَارَ الْبَيْعَ، فَلَيْسَ لَهُ خِيَارٌ بَعْدَ ذٰلِكَ فِي فَسْخِ الْبَيْعِ، وإِنْ لَمْ يَتَفَرَّقَا، هٰكَذَا فَسَّرَهُ الشَّافِعِيُّ وغَيْرُهُ. ومِمَّا يُقَوِّي قَوْلَ مَنْ يَقُولُ: الْفُرْقَةُ بالأَبْدَانِ لَا بِالكَلَامِ حَدِيثُ عَبدِ اللهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب الصدق في البيع والبيان، ح:١٥٣٢ من حديث يحيى القطان والبخاري، ح:٢٠٧٩ من حديث شعبة به.

1247. 'Amr bin Shu'aib narrated from his father, from his grandfather, that the Messenger of Allāh ﷺ said: "Both the buyer and the seller retain the option as long as they did not separate, unless they agreed to making it optional. And it is not lawful for him to seperate from his companion, fearing that he

١٢٤٧ - حَدَّثَنَا بِذٰلِكَ قُتَيْبَةُ [بْنُ سَعِيدٍ]: حَدَّثَنَا اللَّيْثُ بْنُ سَعْدٍ عَنِ ابْنِ عَجْلَانَ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «الْبَيِّعَانِ بالْخِيَارِ مَا لَمْ يَتَفَرَّقَا، إِلَّا أَنْ تَكُونَ صَفْقَةَ خِيَارٍ، ولَا يَحِلُّ لَهُ أَنْ يُفَارِقَ صَاحِبَهُ خَشْيَةَ أَنْ يَسْتَقِيلَهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ، وَمَعْنَى هٰذَا، أَنْ يُفَارِقَهُ بَعْدَ الْبَيْعِ خَشْيَةَ أَنْ يَسْتَقِيلَهُ، وَلَوْ كَانَتِ الْفُرْقَةُ بِالْكَلَامِ، وَلَمْ يَكُنْ لَهُ خِيَارٌ بَعْدَ الْبَيْعِ، لَمْ يَكُنْ لِهٰذَا الْحَدِيثِ مَعْنًى، حَيْثُ قَالَ [ﷺ]: «وَلَا يَحِلُّ لَهُ أَنْ يُفَارِقَهُ خَشْيَةَ أَنْ يَسْتَقِيلَهُ».

will change his mind." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* and this means separating from him after the sale, fearing that he will change his mind. And if the separation referred to speech, and there was no option left for him after the sale, then this *Ḥadīth* would be meaningless, since he ﷺ said: "And it is not lawful for him to separate from his companion, fearing that he will change his mind."

تخريج: [حسن] وأخرجه أبو داود، البيوع، باب: في خيار المتبايعين، ح:٣٤٥٦ والنسائي، ح:٤٤٨٨ عن قتيبة به وصححه ابن الجارود، ح:٦٢٠.

Comments:

Here *"Iqālah"* means the appeal for the cancellation of deal. Here it does not mean the demand of return of goods purchased after the deal is complete, because the return of purchased things is possible even after the separation, with consent of the two parties. One party does not have the choice alone.

(المعجم ٢٧) - بَابُ [مَا جَاءَ فِي خِيَارِ الْمُتَبَايِعَيْنِ] (التحفة ٢٧)

Chapter 27. What Has Been Related About The Option Of The Buyer And The Seller

١٢٤٨ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ: حَدَّثَنَا أَبُو أَحْمَدَ: حَدَّثَنَا يَحْيَى بْنُ أَيُّوبَ [وَهُوَ الْبَجَلِيُّ الْكُوفِيُّ] قَالَ: سَمِعْتُ أَبَا زُرْعَةَ بْنَ عَمْرِو [بْنِ جَرِيرٍ] يُحَدِّثُ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَتَفَرَّقَنَّ عَنْ بَيْعٍ إِلَّا عَنْ تَرَاضٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ.

1248. Abū Hurairah narrated that the Prophet ﷺ said: "They (the two) are not to separate from a sale except in agreement." (*Ḥasan*)

[He said:] This *Ḥadīth* is *Gharīb*.

تخريج: [إسناده حسن] وأخرجه أبو داود، أيضًا، ح:٣٤٥٨ من حديث يحيى بن أيوب به.

١٢٤٩ - حَدَّثَنَا عَمْرُو بْنُ حَفْصٍ الشَّيْبَانِيُّ: حَدَّثَنَا ابْنُ وَهْبٍ عَنِ ابْنِ جُرَيْجٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ خَيَّرَ

1249. Jābir narrated: "The Prophet ﷺ gave a Bedouin the option after a sale." (*Ḍa'īf*)

This *Ḥadīth* is *Ḥasan Gharīb*.

أَعْرَابِيًّا بَعْدَ الْبَيْعِ. وَهٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، التجارات، باب بيع الخيار، ح:٢١٨٤ من حديث عبدالله ابن وهب به وصححه الحاكم على شرط مسلم:٢/ ٤٩ ووافقه الذهبي، ابن جريج صرح بالسماع وللحديث شواهد.

Comments:

The basis of a business deal according to Islamic Law (*Sharī'ah*) depends on mutual consent and good-will, as Allāh said: "But let there be among you trade by mutual good-will" (*Sūrat An-Nisā'* 4:29.) So, the Islamic *Sharī'ah* gives the option of annulment of a deal to all the parties before the conclusion of the meeting, and it also advises not to leave the meeting for the fear of the other party's appeal of cancelling the deal. If both parties agree on the final decision they are allowed to end the meeting. They are also allowed to give the option of cancellation of the deal to one or both the parties after the end of the meeting, but this choice is given in the meeting.

Chapter 28. What Has Been Related About Who Is Cheated In Business

(المعجم ٢٨) - بَابُ مَا جَاءَ فِيمَنْ يُخْدَعُ فِي الْبَيْعِ (التحفة ٢٨)

1250. Anas narrated that there was a man who was not very sensible and he would make purchases. So his family came to the Prophet ﷺ and said: "O Messenger of Allāh! Stop him (from making purchases)." So Allāh's Prophet ﷺ called him to prohibit him, and he said: "O Messenger of Allāh! I have no patience for business." So he said: "When you are buying, say: 'Hand to hand, and no cheating.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is a narration on this topic from Ibn 'Umar.

The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth*.

This is acted upon according to the people of knowledge. They say that the free man can be prevented from selling and buying when his

١٢٥٠ - حَدَّثَنَا يُوسُفُ بْنُ حَمَّادٍ الْبَصْرِيُّ: حَدَّثَنَا عَبْدُ الأَعْلَىٰ بْنُ عَبْدِ الأَعْلَى عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ: أَنَّ رَجُلًا كَانَ فِي عُقْدَتِهِ ضَعْفٌ، وَكَانَ يُبَايِعُ، وَأَنَّ أَهْلَهُ أَتَوُا النَّبِيَّ ﷺ فَقَالُوا: يَا رَسُولَ اللهِ احْجُرْ عَلَيْهِ، فَدَعَاهُ نَبِيُّ اللهِ ﷺ فَنَهَاهُ، فَقَالَ: يَا رَسُولَ اللهِ إِنِّي لَا أَصْبِرُ عَنِ الْبَيْعِ، فَقَالَ: «إِذَا بَايَعْتَ فَقُلْ هَاءَ وَهَاءَ وَلَا خِلَابَةَ».

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

وحَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ، وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَقَالُوا: الْحَجْرُ عَلَى الرَّجُلِ

intellect is weak. This is the view of Aḥmad and Isḥāq. Some of the scholars did not think that the free person who had attained the age of responsibility could be prevented from that.

الْحُرِّ فِي الْبَيْعِ وَالشِّرَاءِ إِذَا كَانَ ضَعِيفَ الْعَقْلِ، وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ، وَلَمْ يَرَ بَعْضُهُمْ أَنْ يُحْجَرَ عَلَى الْحُرِّ الْبَالِغِ.

تخريج: [صحيح] وأخرجه النسائي: ٧/ ٢٥٢، ح: ٤٤٩٠ (البيوع، باب الخديعة في البيع) من يوسف بن حماد، وابن ماجه، ح: ٢٣٥٤ من حديث عبدالأعلى به ورواه أبو داود، ح: ٣٥٠١ من حديث سعيد بن أبي عروبة به وصححه ابن الجارود، ح: ٥٦٨ وابن حبان (الإحسان): ٥٠٢٧، ٥٠٢٨ والحاكم: ٤/ ١٠١ على شرط الشيخين ووافقه الذهبي وله شواهد عند البخاري ومسلم وغيرهما * وفي الباب عن ابن عمر [البخاري، ح: ٢١١٧ ومسلم، ح: ١٥٣٣].

Comments:

As for a person of low calibre and less intellingence or not so smart for business and trade; if he says before making any bargain: 'hand to hand and no cheating' and he keeps the choice of cancellation of the deal if there is any cheating, he should be given this choice. The court of the country has the right to prevent such a person from doing business on the request of his heirs.

Chapter 29. What Has Been Related About The Animal That Has Not Been Milked[1]

(المعجم ٢٩) - بَابُ مَا جَاءَ فِي الْمُصَرَّاةِ (التحفة ٢٩)

1251. Abū Hurairah narrated that the Prophet ﷺ said: "Whoever purchased an animal that has not been milked, then he has the choice when he milks it, if he wishes he may return it, returning a *Ṣā'* of dried-dates along with it." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] There are narrations on this topic from Anas, and a man from the Companions of the Prophet ﷺ.

١٢٥١ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ مُحَمَّدِ بْنِ زِيَادٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ النَّبِيُّ ﷺ: «مَنِ اشْتَرَى مُصَرَّاةً فَهُوَ بِالخِيَارِ إِذَا حَلَبَهَا، إِنْ شَاءَ رَدَّهَا ورَدَّ مَعَها صَاعًا مِنْ تَمْرٍ».

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنْ أَنَسٍ وَرَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

تخريج: [إسناده صحيح] وأخرجه أحمد: ٢/ ٣٨٦ من حديث حماد بن سلمة به وله طرق عند البخاري، ح: ٢١٤٨ ومسلم، ح: ١٥١٥ وغيرهما عن أبي هريرة رضي الله عنه * وفي الباب عن أنس [البزار (كشف الأستار): ٢/ ٨٩، ٩٠، ح: ١٢٧٤ وأبو يعلى: ٥/ ١٥٥، ح: ٢٧٦٧ والبيهقي: ٥/ ٣١٩] ورجل من أصحاب النبي ﷺ [أحمد: ٤/ ٣١٤].

[1] *Al-Muṣarrāt*: It is the camel, cow or sheep, whose milk has been retained in its udders. See *Tuḥfat Al-Aḥwadhī* and *An-Nihāyah*.

1252. Abū Hurairah narrated that the Prophet ﷺ said: "Whoever purchases an animal that has not been milked, then he retains the option for three days. If he returns it, then he is to return with it a *Ṣā'* of food, not *Samrā'*." (***Ṣaḥīḥ***)

[Abū 'Eīsā sad]: The meaning of: "Not *Samrā*'" is "not wheat."

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This *Ḥadīth* is acted upon according to our companions, among them Ash-Shāfi'ī, Aḥmad, and Isḥāq.

١٢٥٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو عَامِرٍ: حَدَّثَنَا قُرَّةُ بْنُ خالِدٍ عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنِ اشْتَرَى مُصَرَّاةً فَهُوَ بِالخِيَارِ ثَلَاثَةَ أَيَّامٍ، فَإِنْ رَدَّهَا رَدَّ مَعَهَا صَاعًا مِنْ طَعَامٍ لَا سَمْرَاءَ».

[قَالَ أَبُو عِيسَى:] مَعْنَى لَا سَمْرَاءَ: لَا بُرَّ. هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هٰذَا الحَدِيثِ عِنْدَ أَصْحَابِنَا، مِنْهُمُ الشَّافِعِيُّ وَأَحْمَدُ وإِسْحَاقُ.

تخريج: وأخرجه مسلم، البيوع باب حكم بيع المصراة، ح: ١٥٢٤ من حديث أبي عامر به.

Comments:

"Al-Muṣarrāt" is derived from *'Taṣrrah'* which means to withhold or block. "*Al-Muṣarrāt*" is a camel, cow or sheep whose milk is left in its udder to tempt the buyer that the animal gives plenty of milk.

Chapter 30. What Has Been Related About The Stipulation For Riding An Animal At The Time Of The Sale

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي اشْتِرَاطِ ظَهْرِ الدَّابَّةِ عِنْدَ الْبَيْعِ (التحفة ٣٠)

1253. Jābir bin 'Abdullāh narrated that he sold a camel to the Prophet ﷺ and made the condition that he could ride it to (return to) his family. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. It has been reported through other routes from Jābir.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They consider it allowed to make a condition in a sale when it is one condition. This is the view of

١٢٥٣ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا وَكِيعٌ عَنْ زَكَرِيَّا، عَنِ الشَّعْبِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ: أَنَّهُ بَاعَ مِنَ النَّبِيِّ ﷺ بَعِيرًا، واشْتَرَطَ ظَهْرَهُ إِلَى أَهْلِهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ جَابِرٍ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، يَرَوْنَ الشَّرْطَ فِي الْبَيْعِ جائِزًا، إِذَا كانَ شَرْطًا وَاحِدًا، وَهُوَ

Aḥmad and Isḥāq.

Some of the people of knowledge said that it is not allowed to make a condition in a sale, nor to complete a sale when there is a condition for it.

قَوْلُ أَحْمَدَ وَإِسْحَاقَ.

وَقَالَ بَعْضُ أَهْلِ العِلْمِ: لَا يَجُوزُ الشَّرْطُ فِي البَيْعِ، وَلَا يَتِمُّ البَيْعُ إِذَا كَانَ فِيهِ شَرْطٌ.

تخريج: متفق عليه، وأخرجه مسلم، المساقاة، باب بيع البعير واستثناء ركوبه، ح:٧١٥ بعد، ح:١٥٩٩ من حديث زكريا والبخاري، ح:٢٩٦٧ من حديث الشعبي به مطولاً ومختصرًا.

Comments:

Putting a condition on a sale by which only one party gets the benefit is lawful. For example the seller of a horse can make a condition that he would ride the horse to return to his house, or on the sale of a house the seller can make a condition that he will reside in this house for such a period and then the possession will be given. 'Allāmah Taqī also approves of putting only one condition. (See Appendix of the *Mujjalah Al-Aḥkām Al-Adliyah* (Urdu) v. 1 p.636. and p.49 and *Ṣaḥīḥ Muslim, Fawaid.*)

Chapter 31. [What Has Been Related About] Using What Is Pawned

(المعجم ٣١) - بَابُ [مَا جَاءَ فِي] الانْتِفَاعِ بِالرَّهْنِ (التحفة ٣١)

1254. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "A riding animal can be ridden while it is pawned, and a milking animal can be milked while it is pawned, and it is up to the one riding and drinking (the milk) to maintain it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

We do not know of it being *Marfū'* except by the narration of 'Āmir Ash-Sha'bī from Abū Hurairah. Others have reported this *Ḥadīth* from Al-A'mash, from Abū Ṣāliḥ, from Abū Hurairah in *Mawqūf* form.

This is acted upon according to some of the people of knowledge, and it is the view of Aḥmad and

١٢٥٤ - حَدَّثَنَا أَبُو كُرَيْبٍ وَيُوسُفُ بْنُ عِيسَى قَالَا: حَدَّثَنَا وَكِيعٌ عَنْ زَكَرِيَّا، عَنْ عَامِرٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الظَّهْرُ يُرْكَبُ إِذَا كَانَ مَرْهُونًا، ولَبَنُ الدَّرِّ يُشْرَبُ إِذَا كَانَ مَرْهُونًا، وَعَلَى الَّذِي يَرْكَبُ وَيَشْرَبُ، نَفَقَتُهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ عَامِرٍ الشَّعْبِيِّ، عَنْ أَبِي هُرَيْرَةَ، وَقَدْ رَوَى غَيْرُ وَاحِدٍ هٰذَا الحَدِيثَ عَنِ الأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ مَوْقُوفًا، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وهُوَ قَوْلُ أَحْمَدَ

Isḥāq.

Some of the people of knowledge said that one may not benefit in any way from what is pawned.

وَإِسْحَاقَ.

وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَيْسَ لَهُ أَنْ يَنْتَفِعَ مِنَ الرَّهْنِ بِشَيْءٍ.

تخريج: وأخرجه البخاري، الرهن في الحضر، باب الرهن مركوب ومحلوب، ح:٢٥١١، ٢٥١٢ من حديث زكريا بن أبي زائدة به.

Comments:

It is proved from this narration that the benefit of a pawned thing or animal be taken in proportion to the expenditure of maintenance. Imām Aḥmad and Isḥāq approve this view, and according to most of the people of knowledge this view is correct.

Chapter 32. What Has Been Related About Selling A Necklace Containing Gold And Jewels

(المعجم ٣٢) - بَابُ مَا جَاءَ فِي شِرَاءِ الْقِلَادَةِ وَفِيهَا ذَهَبٌ وَخَرَزٌ (التحفة ٣٢)

1255. Faḍālah bin 'Ubaidah narrated: "On the Day of Khaibar I purchased a necklace that contained gold and jewels for twelve Dinar. I separated it and found that it was worth more than twelve Dinar. I mentioned that to the Prophet ﷺ and he said: 'Do not sell it until it is separated.'" (*Ṣaḥīḥ*)

(Another chain of narration) with similar meaning.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They did not think that an embellished (silver-gilded) sword could be sold for Dirham, nor a silver-plated waist-band, or something similar, until it (the silver) was distinguished and separated. This is the view of Ibn Al-Mubārak, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

Some of the people of knowledge,

١٢٥٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ أَبِي شُجَاعٍ سَعِيدِ بْنِ يَزِيدَ، عَنْ خَالِدِ بْنِ أَبِي عِمْرانَ، عَنْ حَنَشٍ الصَّنْعَانِيِّ، عَنْ فَضَالَةَ بْنِ عُبَيْدٍ قَالَ: اشْتَرَيْتُ يَوْمَ خَيْبَرَ قِلَادَةً باثْنَي عَشَرَ دِينارًا، فِيها ذَهَبٌ وَخَرَزٌ، فَفَصَّلْتُهَا، فَوَجَدْتُ فِيها أَكْثَرَ مِنَ اثْنَيْ عَشَرَ دِينَارًا، فَذَكَرْتُ ذَلِكَ لِلنَّبِيِّ ﷺ فَقَالَ: «لَا تُبَاعُ حَتَّى تُفَصَّلَ».

حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنْ أَبِي شُجَاعٍ سَعِيدِ بْنِ يَزِيدَ، بِهٰذَا الإِسْنَادِ، نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، لَمْ يَرَوْا أَنْ يُبَاعَ السَّيْفُ مُحَلًّى، أَوْ مِنْطَقَةٌ مُفَضَّضَةٌ، أَوْ مِثْلُ هٰذَا، بِدَرَاهِمَ حَتَّى يُمَيَّزَ وَيُفَصَّلَ، وَهُوَ قَوْلُ ابْنِ الْمُبَارَكِ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ.

among the Companions of the Prophet ﷺ and others, permitted that.

وقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي ذَٰلِكَ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ.

تخريج: وأخرجه مسلم، المساقاة، باب بيع القلادة فيها خرز وذهب، ح: ١٥٩١ عن قتيبة به.

Comments:

This narration shows that if anything is mixed with gold and it is being sold for the sake of gold, the gold must be separated from the object. The same formula is applied to silver. This has been commanded so that every metal is sold separately at its own price. In case of mixture of metals, it is not possible to weigh each metal exactly, and selling a thing based upon estimation is prohibited. To avoid this doubt, it has been ordered to separate the metals.

Chapter 33. What Has Been Related About Making A Condition To Retain *Al-Walā'*[1] And The Rebuke For That

(المعجم ٣٣) - بَابُ مَا جَاءَ فِي اشْتِرَاطِ الْوَلَاءِ وَالزَّجْرِ عَنْ ذَلِكَ (التحفة ٣٣)

1256. Al-Aswad narrated from 'Āishah that she wanted to purchase Barīrah, but they (her owners) made the condition that they would retain the *Walā'*. So the Prophet ﷺ said: "Buy her; the *Walā'* is only for the one who gives the price, or for the one who grants the favor."[2]

[He said:] There is something on this topic from Ibn 'Umar. (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] The *Ḥadīth* of 'Āishah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. And Manṣūr bin Al-Mu'tamir's *Kunyah* is Abū 'Attāb.

Abū Bakr Al-'Aṭṭār Al-Baṣrī narrated to us from 'Alī bin Al-Madīnī who said: "I heard Yaḥya bin Sa'eed saying: 'When you get a narration from Manṣūr, then your

١٢٥٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ مَنْصُورٍ، عَنْ إِبْرَاهِيمَ، عَنِ الأَسْوَدِ، عَنْ عَائِشَةَ: أَنَّهَا أَرَادَتْ أَنْ تَشْتَرِيَ بَرِيرَةَ، فَاشْتَرَطُوا الْوَلَاءَ، فَقَالَ النَّبِيُّ ﷺ: «اشْتَرِيهَا، فَإِنَّمَا الْوَلَاءُ لِمَنْ أَعْطَى الثَّمَنَ، أَوْ لِمَنْ وَلِيَ النِّعْمَةَ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. قَالَ: ومَنْصُورُ بْنُ الْمُعْتَمِرِ يُكَنَّى أَبَا عَتَّابٍ.

حَدَّثَنَا أَبُو بَكْرٍ الْعَطَّارُ الْبَصْرِيُّ عَنْ عَلِيِّ ابْنِ الْمَدِينِيِّ قَالَ: سَمِعْتُ يَحْيَى بْنَ سَعِيدٍ

[1] See no. 1236.
[2] Meaning, the one who frees them. (*Tuḥfat Al-Aḥwadhi*)

hand has been filled with goodness, without needing others.' Then Yaḥya said: 'I did not find anyone more reliable in (narrating from) Ibrāhīm An-Nakha'ī and Mujāhid than Manṣūr."

يَقُولُ: إِذَا حُدِّثْتَ عَنْ مَنْصُورٍ فَقَدْ مَلأْتَ يَدَكَ مِنَ الخَيْرِ لَا تُرِدْ غَيْرَهُ، ثُمَّ قَالَ يَحْيَى: مَا أَجِدُ فِي إِبْرَاهِيمَ النَّخَعِيِّ وَمُجَاهِدٍ، أَثْبَتَ مِنْ مَنْصُورٍ.

[He said:] Muḥammad informed me from 'Abdullāh bin Abī Al-Aswad who said: " 'Abdur-Raḥmān bin Mahdī said: 'Manṣūr is the most reliable of the people of Al-Kūfah.'"

[قَالَ:] وَأَخْبَرَنِي مُحَمَّدٌ عَنْ عَبْدِ اللهِ بْنِ أَبِي الأَسْوَدِ قَالَ: قَالَ عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: مَنْصُورٌ أَثْبَتُ أَهْلِ الْكُوفَةِ.

تخريج: وأخرجه البخاري، الفرائض، باب الولاء لمن أعتق وميراث اللقيط، ح:٦٧٥١ من حديث إبراهيم النخعي به وله طريق آخر عند مسلم، ح:١٥٠٤ عن عائشة به * وفي الباب عن ابن عمر [البخاري، ح:٦٧٥٢] * قول يحيى بن سعيد القطان: إذا حدثت عن منصور إلخ، سنده صحيح وكذا قول ابن مهدي، صحيح عنه.

Comments:

A person who frees a slave or a slave-girl, or makes the payment for their freedom, or buys them, has the right of their inheritance. At the time of selling a slave, putting a condition of *Walā'* is against the *Sharī'ah*, and whoever goes against the Islamic Law is liable to punishment and action performed. (See for details *Fatḥ Al-Bārī* v. 5 p.335-336.)

Chapter 34. Contingent Purchases And Sales

(المعجم ٣٤) - بَابُ [الشِّرَاءِ وَالْبَيْعِ الْمَوْقُوفَيْنِ] (التحفة ٣٤)

1257. Ḥabīb bin Abī Thābit narrated from Ḥakīm bin Ḥizām, that the Messenger of Allāh ﷺ sent Ḥakīm bin Ḥizām with a Dīnār to buy an animal for *Uḍḥiyyah* (an animal for sacrifice) for him. He purchased an *Uḍḥiyyah* which he sold and profited a Dīnār from, so he purchased another in its place. And he returned to the Messenger of Allāh ﷺ with the *Uḍḥiyyah* and the Dīnār, so he said: 'The sheep is for sacrifice and the Dīnār is for charity.'" (*Ḍa'īf*)

١٢٥٧ - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ أَبِي حُصَيْنٍ، عَنْ حَبِيبِ ابْنِ أَبِي ثَابِتٍ، عَنْ حَكِيمِ بْنِ حِزَامٍ: أَنَّ رَسُولَ اللهِ ﷺ بَعَثَ حَكِيمَ بْنَ حِزَامٍ يَشْتَرِي لَهُ أُضْحِيَّةً بِدِينَارٍ، فَاشْتَرَى أُضْحِيَّةً فَأُرْبِحَ فِيهَا دِينَارًا، فَاشْتَرَى أُخْرَى مَكَانَهَا، فَجَاءَ بِالأُضْحِيَّةِ والدِّينَارِ إِلَى رَسُولِ اللهِ ﷺ فَقَالَ: «ضَحِّ بِالشَّاةِ، وَتَصَدَّقْ بِالدِّينَارِ».

[Abū 'Eīsā said:]: We do not know of the *Ḥadīth* of Ḥakīm bin Ḥizām

[**قَالَ أَبُو عِيسَى**:] حَدِيثُ حَكِيمِ بْنِ حِزَامٍ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ، وَحَبِيبُ بْنُ أَبِي ثَابِتٍ لَمْ يَسْمَعْ، عِنْدِي، مِنْ حَكِيمِ بْنِ حِزَامٍ.

except through this route, and Ḥabīb bin Abī Thābīt did not hear from Ḥakīm bin Ḥizām — in my view.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، البيوع، باب: في المضارب يخالف، ح:٣٣٨٦ عن أبي حصين عن شيخ من أهل المدينة عن حكيم به * حبيب بن أبي ثابت: مدلس وعنعن وهو شيخ من أهل المدينة.

Comments:

The Prophet ﷺ gave one Dīnār to Ḥakīm to buy an animal for sacrifice and not for the sake of business. Ḥakīm, in good faith and as a well-wisher of the Prophet ﷺ, earned one Dīnār by a business transaction. He came to the Prophet ﷺ and presented the animal and the Dīnār. The motive of the Prophet ﷺ was only to make a sacrifice and not any kind of business, so he ordered Ḥakīm to slaughter the animal and give a Dīnār in charity.

1258. 'Urwah Al-Bāriqī said: "The Messenger of Allāh ﷺ gave me one Dīnār to purchase a sheep for him. So I purchased two sheeps for him, and I sold one of them for a Dīnār. So I returned with the sheep and the Dīnār to the Prophet ﷺ, and I mentioned what had happened and he said: 'May Allāh bless you in your business dealings.' After that he went to Kunāsah in Al-Kūfah, and he made tremendous profits. He was among the wealthiest of the people of Al-Kūfah." (*Sahīh*)

(Another chain of narration) with similar meaning.

[Abū 'Eīsā said:] Some of the people of knowledge followed this *Hadīth* and stated their view accordingly. This is the view of Aḥmad and Isḥāq. Some of the people of knowledge did not use this *Hadīth*, among them are Ash-Shāfi'ī and Sa'eed bin Zaid the brother of Ḥammād bin Zaid. And Abū Labīd's (a narrator) name is Limāzah [bin Zabbār].

١٢٥٨ - **حَدَّثَنَا** أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ: حَدَّثَنَا حَبَّانُ: حَدَّثَنَا هَارُونُ [الأَعْوَرُ الْمُقْرِىءُ - وَهُوَ] ابْنُ مُوسَى [الْقَارِىءُ] -: حَدَّثَنَا الزُّبَيْرُ بْنُ الخِرِّيتِ عَنْ أَبِي لَبِيدٍ، عَنْ عُرْوَةَ الْبَارِقِيِّ قَالَ: دَفَعَ إِلَيَّ رَسُولُ اللهِ ﷺ دِينَارًا لأَشْتَرِيَ لَهُ شَاةً، فَاشْتَرَيْتُ لَهُ شَاتَيْنِ، فَبِعْتُ إِحْدَاهُمَا بِدِينَارٍ، وَجِئْتُ بِالشَّاةِ والدِّينَارِ إِلَى النَّبِيِّ ﷺ، فَذَكَرَ لَهُ مَا كَانَ مِنْ أَمْرِهِ، فَقَالَ [لَهُ]: «بَارَكَ اللهُ لَكَ فِي صَفْقَةِ يَمِينِكَ».

فَكانَ يَخْرُجُ بَعْدَ ذٰلِكَ إِلَى كُنَاسَةِ الْكُوفَةِ، فَيَرْبَحُ الرِّبْحَ الْعَظِيمَ، فَكانَ مِنْ أَكْثَرِ أَهْلِ الْكُوفَةِ مَالاً.

حَدَّثَنَا أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ: حَدَّثَنَا حَبَّانُ: حَدَّثَنَا سَعِيدُ بْنُ زَيْدٍ [هُوَ أَخُو حَمَّادِ ابْنِ زَيْدٍ] قَالَ: حَدَّثَنَا الزُّبَيْرُ بْنُ خِرِّيتٍ. فَذَكَرَ نَحْوَهُ عَنْ أَبِي لَبِيدٍ.

[قَالَ أَبُو عِيسَى:] وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هٰذَا الْحَدِيثِ وقَالُوا بِهِ. وَهُوَ قَوْلُ

أَحْمَدَ وإِسْحَاقَ، ولَمْ يَأْخُذْ بَعْضُ أَهْلِ الْعِلْمِ بِهذَا الْحَدِيثِ، مِنْهُمُ الشَّافِعِيُّ وَسَعِيدُ بْنُ زَيْدٍ، أَخُو حَمَّادِ بْنِ زَيْدٍ. وأَبُو لَبِيدٍ اسْمُهُ لِمَازَةُ [بْنُ زَبَّارٍ].

تخريج: [صحيح] وأخرجه ابن ماجه، الصدقات، باب الأمين يتجر فيه فيربح، ح:٢٤٠٢ من حديث الزبير بن خريت به وله طريق آخر عند البخاري، ح:٣٦٤٢ عن عروة البارقي به، وأخرجه أبو داود، ح:٣٣٨٥ من حديث سعيد بن زيد وسنده حسن.

Comments:

Some *A'immah* and scholars, on the basis of this narration, have approved of making a profit with the money of others without their permission, and giving the profit to them. 'Urwah purchased two goats with the money given to him by the Prophet ﷺ, without the permission of the Prophet ﷺ, whereas the money was given to him for the purchase of one goat. He sold one goat and earned one Dīnār. He returned to the Prophet ﷺ with a goat and Dīnār. The Prophet ﷺ appreciated his sentiments and invoked Allāh's blessings for him.

Chapter 35. What Has Been Related About The *Mukātab*[1] Who Has What Will Fulfill (His Release)

(المعجم ٣٥) - بَابُ مَا جَاءَ فِي الْمُكَاتَبِ إِذَا كَانَ عِنْدَهُ مَا يُؤَدِّي (التحفة ٣٥)

1259. Ibn 'Abbās narrated that the Prophet ﷺ said: "When the penalty (of blood money) goes to a *Mukātab*, or an inheritance, then he inherits in accordance with as much as he is freed from it." And the Prophet ﷺ said: "The *Mukātab* is given the blood-money of a free person in accordance to what he has paid (for his freedom), and that of a slave in accordance to what remains."[2] (*Ṣaḥīḥ*)

[He said:] There is something on this from Umm Salamah.

[Abū 'Eīsā said:] The *Ḥadīth* of

١٢٥٩ - حَدَّثَنَا هارُونُ بْنُ عَبْدِ اللهِ الْبَزَّازُ: حَدَّثَنَا يَزِيدُ بْنُ هارُونَ: حَدَّثَنَا حَمَّادُ ابْنُ سَلَمَةَ عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «إِذَا أَصَابَ الْمُكَاتَبُ حَدًّا أَوْ مِيرَاثًا، وَرِثَ بِحِسَابِ مَا عَتَقَ مِنْهُ».

وَقَالَ النَّبِيُّ ﷺ: «يُؤَدِّي الْمُكَاتَبُ بِحِصَّةِ مَا أَدَّى، دِيَةَ حُرٍّ: ومَا بَقِيَ، دِيَةَ عَبْدٍ».

[قَالَ:] وفِي الْبَابِ عَنْ أُمِّ سَلَمَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ

[1] The *Mukātab* is the slave that has an agreement from his owner to free him for a price.

[2] If the *Mukātab* deserves some inheritance or he is to be paid some blood money, then the portions of these that he is due will depend on the portion of freedom that he has purchased from his owner.

Ibn 'Abbās is a *Ḥasan Ḥadīth*. This is how it was reported from Yaḥya bin Abī Kathīr from 'Ikrimah, from Ibn 'Abbās, from the Prophet ﷺ.

Khālid bin Al-Ḥadh-dhā' reported it from 'Ikrimah, from 'Alī as his saying.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others.

Most of the people of knowledge among the Companions of the Prophet ﷺ and others said that the *Mukātab* remains a slave as long as he still owes a Dirham. This is the view of Sufyan Ath-Thawrī, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

حَدِيثٌ حَسَنٌ. وَهٰكَذَا رَوَى يَحْيَى بْنُ أَبِي كَثِيرٍ عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ، وَرَوَى خَالِدٌ الْحَذَّاءُ عَنْ عِكْرِمَةَ، عَنْ عَلِيٍّ قَوْلَهُ. وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ.

وَقَالَ أَكْثَرُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: الْمُكَاتَبُ عَبْدٌ، مَا بَقِيَ عَلَيْهِ دِرْهَمٌ، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الديات، باب: في دية المكاتب، ح:٤٥٨٢ من حديث حماد بن سلمة، والنسائي، ح:٤٨١٥ من حديث أيوب السختياني به وصححه الحاكم: ٢/٢١٨، ٢١٩ ووافقه الذهبي * وفي الباب عن أم سلمة [يأتي: ١٢٦١]. =

1260. 'Amr bin Shu'aib narrated from his father, from his grandfather that he heard the Messenger of Allāh ﷺ delivering a *Khuṭbah* in which he said: "Whoever gives a writ of emancipation to his slave, for one hundred *Uqiyyah*, and he pays it to him less ten *Uqiyyah*," – or he said: "Ten Dirham" – "then he becomes incapable (of paying the remainder), then he remains a slave." **(*Ḥasan*)**

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Gharīb*. And this is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others: The *Mukātab* is a slave as long as something remains due from him for his *Kitābah*.

١٢٦٠ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْوَارِثِ ابْنُ سَعِيدٍ عَنْ يَحْيَى بْنِ أَبِي أُنَيْسَةَ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَخْطُبُ يَقُولُ: «مَنْ كاتَبَ عَبْدَهُ عَلَى مائَةِ أُوقِيَّةٍ، فَأَدَّاهَا إِلَّا عَشْرَةَ أَوَاقٍ - أَوْ قَالَ : عَشْرَةَ دَرَاهِمَ - ثُمَّ عَجَزَ، فَهُوَ رَقِيقٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] غَرِيبٌ، وَالْعَمَلُ عَلَيْهِ عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: أَنَّ الْمُكاتَبَ عَبْدٌ مَا بَقِيَ عَلَيْهِ شَيْءٌ مِنْ كِتَابَتِهِ. وقَدْ رَوَاهُ الْحَجَّاجُ بْنُ أَرْطَاةَ عَنْ عَمْرِو بْنِ شُعَيْبٍ نَحْوَهُ.

Al-Ḥajjāj bin Arṭāt reported similarly from 'Amr bin Shu'aib.

تخريج: [**حسن**] وأخرجه أبو داود، العتق، باب: في المكاتب، ح:٣٩٢٧ وابن ماجه، ح:٢٥١٩ من حديث عمرو بن شعيب به وله شواهد عند أبي داود، ح:٣٩٢٦ وغيره.

1261. Umm Salamah narrated that the Messenger of Allāh ﷺ said: "When one of you (women) has a *Mukātab* who has with him what will fufill (the *Kitābah*) then observe *Ḥijāb* from him." (***Ḥasan***)

[Abū Isa said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. And the meaning of this *Ḥadīth* according to the people of knowledge is that of caution. They say that the *Mukātab* is not freed, even if he has the amount to pay, until he pays it.

١٢٦١ - **حَدَّثَنَا** سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ الْمَخْزُومِيُّ قَالَ: حَدَّثَنَا سُفْيَانُ [بْنُ عُيَيْنَةَ] عَنِ الزُّهْرِيِّ، عَنْ نَبْهَانَ [مَوْلَى أُمِّ سَلَمَةَ]، عَنْ أُمِّ سَلَمَةَ قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا كَانَ عِنْدَ مُكَاتَبِ إِحْدَاكُنَّ مَا يُؤَدِّي، فَلْتَحْتَجِبْ مِنْهُ».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَمَعْنَى هٰذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ عَلَى التَّوَرُّعِ، وقَالُوا: لَا يُعْتَقُ الْمُكَاتَبُ، وَإِنْ كانَ عِنْدَهُ مَا يُؤَدِّي، حَتَّى يُؤَدِّيَ.

تخريج: [**إسناده حسن**] وأخرجه أبو داود، ح:٣٩٢٨ (انظر الحديث السابق) وابن ماجه، ح:٢٥٢٠ من حديث سفيان بن عيينة به وصححه ابن حبان، ح:١٢١٤ والحاكم:٢/ ٢١٩ ووافقه الذهبي، الزهري صرح بالسماع ونبهان حسن الحديث وثقه الذهبي في الكاشف والترمذي وابن حبان وغيره.

Comments:

If a *Mukātab* slave has enough money to pay for his freedom, the woman master of the slave should observe *Ḥijāb* from him. The slave is not free until he pays the amount in full, though he has enough amount to pay for his freedom, so, one should observe *Ḥijāb* as a precaution as he has the ability to get freedom.

Chapter 36. What Has Been Related About When A Man In Debt Becomes Bankrupt And One's Goods Are Found With Him

(المعجم ٣٦) - بَابُ مَا جَاءَ إِذَا أَفْلَسَ لِلرَّجُلِ غَرِيمٌ فَيَجِدُ عِنْدَهُ مَتَاعَهُ (التحفة ٣٦)

1262. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whichever person becomes bankrupt, and a man finds his particular merchandise with him, then he is more deserving of it than others." (***Ṣaḥīḥ***)

١٢٦٢ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ أَبِي بَكْرِ بْنِ مُحَمَّدِ [بْنِ عَمْرِو] بْنِ حَزْمٍ، عَنْ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ، عَنْ أَبِي بَكْرِ بْنِ عَبْدِ الرَّحْمٰنِ بْنِ الْحَارِثِ بْنِ هِشَامٍ، عَنْ أَبِي هُرَيْرَةَ عَنْ رَسُولِ اللهِ ﷺ أَنَّهُ

قَالَ: «أَيُّمَا امْرِئٍ أَفْلَسَ، وَوَجَدَ رَجُلٌ سِلْعَتَهُ عِنْدَهُ بِعَيْنِهَا، فَهُوَ أَوْلَى بِهَا مِنْ غَيْرِهِ».

[He said:] There are narrations on this topic from Samurah and Ibn 'Umar.

[قَالَ:] وَفِي الْبَابِ عَنْ سَمُرَةَ وابْنِ عُمَرَ.

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Hadīth*. This is acted upon according to some of the people of knowledge and it is the view of Ash-Shāfi'ī, Ahmad, and Ishāq.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ.

Some of the people of knowledge said that he is just like one of the debtors. This is the view of the people of Al-Kūfah.

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: هُوَ أُسْوَةُ الْغُرَمَاءِ، وهُوَ قَوْلُ أَهْلِ الْكُوفَةِ.

تخريج: متفق عليه، وأخرجه مسلم، المساقاة، باب من أدرك ما باعه عند المشتري، وقد أفلس، فله الرجوع فيه، ح:١٥٥٩ عن قتيبة البخاري، ح:٢٤٠٢ من حديث يحيى بن سعيد الأنصاري به * وفي الباب عن سمرة [أبو داود، ح:٣٥٣١] وابن عمر [ابن حبان (موارد):١١٦٥].

Comments:

According to this narration, if a person becomes bankrupt and he still has another person's merchandise with him, the owner of the goods can have his stock back because he is the real owner. Three *A'immah*, Mālik, Shāfi'ī, and Ahmad, and most of the scholars and people of knowledge among the Companions approve of this view.

Chapter 37. What Has Been Related About The Prohibition For The Muslim To Give Wine To The *Dhimmī* When Bartering With Him

(المعجم ٣٧) - بَابُ مَا جَاءَ فِي النَّهْيِ لِلْمُسْلِمِ، أَنْ يَدْفَعَ إِلَى الذِّمِّيِّ الْخَمْرَ يَبِيعُهَا لَهُ (التحفة ٣٧)

1263. Abū Al-Waddāk narrated that Abū Sa'eed said: "We had some wine that belonged to an orphan. When *Al-Mā'idah* was revealed I asked the Messenger of Allāh ﷺ about it, I said: 'It belongs to an orphan.' He said: 'Spill it out.'" (*Sahīh*)

١٢٦٣ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: أَخْبَرَنَا عِيسَى بْنُ يُونُسَ عَنْ مُجَالِدٍ، عَنْ أَبِي الْوَدَّاكِ، عَنْ أَبِي سَعِيدٍ قَالَ: كَانَ عِنْدَنَا خَمْرٌ لِيَتِيمٍ. فَلَمَّا نَزَلَتِ الْمَائِدَةُ، سَأَلْتُ رَسُولَ اللهِ ﷺ عَنْهُ، وَقُلْتُ: إِنَّهُ لِيَتِيمٍ فَقَالَ: «أَهْرِيقُوهُ».

[He said:] There is something on this topic from Anas bin Mālik.

[قَالَ:] وَفِي الْبَابِ عَنْ أَنَسِ بْنِ مَالِكٍ.

[Abū 'Eīsā said:] The *Hadīth* of

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي سَعِيدٍ

Abū Sa'eed is a *Ḥasan* [*Ṣaḥīḥ*] *Ḥadīth*. Similar to this has been reported through other routes from the Prophet ﷺ. Some of the people of knowledge stated according to this, they dislike the usage of wine for making vinegar. And the only thing that they disliked about it, and Allāh knows best, is for a Muslim to have wine in his house until it becomes vinegar. Some of them permitted wine vinegar when it is found that it has become vinegar. [Abū Al-Waddāk's name is Jabr bin Nawf].

حَدِيثٌ حَسَنٌ [صَحِيحٌ]. وَقَدْ رُوِيَ مِنْ غَيرِ وَجْهٍ عَنِ النَّبِيِّ ﷺ نَحْوُ هٰذَا. وقالَ بِهذَا بَعْضُ أَهْلِ الْعِلْمِ. وكَرِهُوا أَنْ تُتَّخَذَ الْخَمْرُ خَلًّا، وَإِنَّمَا كُرِهَ مِنْ ذَلِكَ، وَاللهُ أَعْلَمُ، أَنْ يَكُونَ الْمُسْلِمُ في بَيْتِهِ خَمْرٌ حَتَّى يَصِيرَ خَلًّا، وَرَخَّصَ بَعْضُهُمْ في خَلِّ الْخَمْرِ، إِذَا وُجِدَ قَدْ صَارَ خَلًّا [أَبُو الوَدَّاكِ اسْمُهُ جَبْرُ بْنُ نَوْفٍ].

تخريج: [صحيح] وأخرجه أحمد: ٣/٢٦ من حديث مجالد به، وصححه ابن الجارود، ح: ٨٥٣ وله شواهد عند الترمذي، ح: ١٢٩٣ وأبي داود، ح: ٣٦٧٥ وغيرهما * وفي الباب عن أنس بن مالك [لعله يشير إلى الحديث الآتي: ١٢٩٤].

Comments:

Most of the people of knowledge do not approve of making vinegar from wine; they argue that if it had been acceptable why would the Prophet ﷺ order him to spill it out. This point is correct and most of the people act according to this. According to Imām Abū Ḥanīfah and Imām Awzā'ī it is approved to make vinegar from wine. (For details see *Ṣaḥīḥ Muslim*.)

Chapter 38. 'Fulfill The Trust For The One Who Entrusted You'

(المعجم ٣٨) - بَابٌ: [أَدِّ الْأَمَانَةَ إِلَى مَنِ ائْتَمَنَكَ] (التحفة ٣٨)

1264. Abū Hurairah narrated that the Prophet ﷺ said: "Fulfill the trust for the one who entrusted you, and do not cheat the one who cheated you." (***Da'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. Some of the people of knowledge followed this *Ḥadīth*, they said that when something beloning to a man is with another and he leaves (with it), then he has something that belongs to him, he may not withhold from him an

١٢٦٤ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا طَلْقُ ابْنُ غَنَّامٍ عَنْ شَرِيكٍ. وَقَيْسٌ عَنْ أَبِي حَصِينٍ، [عَنْ أَبِي صَالِحٍ]، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ النَّبِيُّ ﷺ: «أَدِّ الأَمَانَةَ إِلَى مَنِ ائْتَمَنَكَ، وَلا تَخُنْ مَنْ خَانَكَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هٰذَا الْحَدِيثِ وَقَالُوا: إِذَا كانَ لِلرَّجُلِ عَلَى آخَرَ

equivalent to what the other took of his.

Some of the people of knowledge among the *Tābi'īn* allowed that. This is the view of Sufyān Ath-Thawrī, he said: "If one man has some Dirham that belong to another, and the second has some Dīnār belonging to the first, he may not withhold any in place of his Dirham, unless it so happens that he has some Dirham of his, then in that case he can withhold some of his Dirham equal to what he is owed by the first."

شَيْءٌ فَذَهَبَ بِهِ، فَوَقَعَ لَهُ عِنْدَهُ شَيْءٌ، فَلَيْسَ لَهُ أَنْ يَحْبِسَ عَنْهُ بِقَدْرِ مَا ذَهَبَ لَهُ عَلَيْهِ.
وَرَخَّصَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ مِنَ التَّابِعِينَ.
وَهُوَ قَوْلُ الثَّورِيِّ، وَقَالَ: إِنْ كانَ لَهُ عَلَيْهِ دَرَاهِمُ، فَوَقَعَ لَهُ عِنْدَهُ دَنَانِيرُ، فَلَيْسَ لَهُ أَنْ يَحْبِسَ بِمَكَانِ دَرَاهِمِه، إِلَّا أَنْ يَقَعَ عِنْدَهُ لَهُ دَرَاهِمُ، فَلَهُ حِينَئِذٍ أَنْ يَحْبِسَ مِنْ دَرَاهِمِه بِقَدْرِ مَا لهُ عَلَيْهِ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، البيوع، باب: في الرجل يأخذ حقه من تحت يده، ح: ٣٥٣٥ من حديث طلق بن غنام به وصححه الحاكم: ٢/٤٦ على شرط مسلم.

Comments:

There are different views of different scholars on this issue of *Al-Zafar*. *Al-Zafar* is an issue concerning withholding of money of another person in place of one's own money or property which he owes him. 1) According to Imām Shāfi'ī one whose amount has been seized by another person, if by chance he gets his (the second's) money, he is allowed to deduct equal to his amount from the amount he got by chance. 2) The *Aḥnāf* are of the view that if the kind of the thing is same then it is allowed to deduct one's due share. Imām Shāfi'ī also approves of this view point. 3) It is not allowed to cut one's share without judicial verdict. 4) According to Ibn Ḥazm, in any case, one should cut his due share. It is not only his right but if he does not deduct his amount or due share he is a wrong-doer. He must get it or forgive. If he forgives he not only saves himself from a crime but also gets the reward from Allāh. (*Tuḥfat Al-Aḥwadhī* v.2 p.252.)

Chapter 39. What Has Been Related About 'The Borrowed Is To Be Returned'

(المعجم ٣٩) - **بَابُ مَا جَاءَ [فِي] أَنَّ الْعَارِيَةَ مُؤَدَّاةٌ** (التحفة ٣٩)

1265. Abū Umāmah narrated: "During the year of the Farewell Pilgrimage, I heard the Prophet ﷺ saying during the *Khuṭbah*: 'The borrowed is to be returned, and the guarantor is responsible, and the debt is to be repaid.'" (*Ḥasan*)

١٢٦٥ - حَدَّثَنَا هَنَّادٌ وَعَلِيُّ بْنُ حُجْرٍ قَالَا: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَيَّاشٍ عَنْ شُرَحْبِيلَ ابْنِ مُسْلِمٍ الخَوْلَانِيِّ، عَنْ أَبِي أُمَامَةَ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ فِي خُطْبَتِهِ، عَامَ حَجَّةِ

الْوَدَاعِ «الْعارِيَةُ مُؤَدَّاةٌ، وَالزَّعِيمُ غارِمٌ، وَالدَّيْنُ مَقْضِيٌّ».

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنْ سَمُرَةَ، وَصَفْوَانَ بْنِ أُمَيَّةَ وَأَنسٍ. [قَالَ: و]حَدِيثُ أَبِي أُمَامَةَ حَدِيثٌ حَسَنٌ [غَرِيبٌ]. وَقَدْ رُوِيَ عَنْ أَبِي أُمَامَةَ عَنِ النَّبِيِّ ﷺ أَيْضًا، مِنْ غَيْرِ هٰذَا الْوَجْه.

[Abū 'Eīsā said:] There are narrations on this topic from Samurah, Ṣafwān bin Umayyah, and Anas. [He said:] The *Ḥadīth* of Abū Umāmah is a *Ḥasan [Gharīb] Ḥadīth*. It has also been reported through other routes besides this, from Abū Umāmah, from the Prophet ﷺ.

تخريج: [إسناده حسن] وأخرجه أبو داود، البيوع، باب: في تضمين العارية، ح:٣٥٦٥ وابن ماجه، ح:٢٢٩٥ من حديث إسماعيل به مطولاً ومختصرًا، وصححه ابن الجارود، ح:١٠٢٣ إسماعيل بن عياش صرح بالسماع من الخولاني الشامي * وفي الباب عن سمرة [يأتي:١٢٦٦] وصفوان بن أمية [أبو داود، ح:٣٥٦٢] وأنس [ابن ماجه، ح:٢٣٩٩].

Comments:

This narration proves that it is necessary and essential to return the borrowed things. There should not be any delaying tactics in the payment. Making delay in return is a moral crime. The guarantor must manage and make sure that the debt is paid.

١٢٦٦ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «عَلَى الْيَدِ مَا أَخَذَتْ حَتَّى تُؤَدِّيَ». قَالَ قَتَادَةُ: ثُمَّ نَسِيَ الْحَسَنُ فَقَالَ: هُوَ أَمِينُكَ لَا ضَمَانَ عَلَيْهِ، يَعْنِي الْعَارِيَةَ.

1266. Qatādah narrated from Al-Ḥasan, from Samurah, that the Prophet ﷺ said: "Upon the hand is what it took, until it is returned." Qatādah said: "Then Al-Ḥasan forgot, so he said: 'It is something you entrusted, he is not liable for it.''' Meaning the borrowed property. ***(Ḍa'īf)***

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ إِلى هٰذَا، وَقَالُوا: يَضْمَنُ صَاحِبُ الْعارِيَةِ. وهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ، لَيْسَ عَلَى صَاحِبِ الْعَارِيَةِ ضَمَانٌ إِلَّا أَنْ يُخَالِفَ. وَهُوَ قَوْلُ الثَّوْرِيِّ وأَهْلِ الْكُوفَةِ، وبِهِ يَقُولُ إِسْحَاقُ.

[Abū Isa said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Some of the people of knowledge, among the Companions of the Prophet ﷺ and others, followed this *Ḥadīth*. They said that the possessor of the borrowed thing is liable. This is the view of Ash-Shāfi'ī and Aḥmad. Some of the people of knowledge among the Companions and others said that the possessor of the borrowed thing is not liable unless there is a dispute. This is the view of Sufyān Ath-Thawrī and the

people of Al-Kūfah, and it is the view of Isḥāq.

تخريج: [**إسناده ضعيف**] وأخرجه ابن ماجه، الصدقات، باب العارية، ح: ٢٤٠٠ من حديث محمد بن أبي عدي، وأبو داود، ح: ٣٥٦١ من حديث سعيد بن أبي عروبة به وصححه ابن الجارود، ح: ١٢٤ والحاكم على شرط البخاري: ٢/ ٤٧ ووافقه الذهبي * قتادة مدلس عنعن.

Comments:

A borrowed thing must be returned even if it is damaged or lost unintentionally. Though there is no legal responsibility of the borrower as he had no intention to damage or loose the borrowed thing. It is his moral duty to return or compensate for it. The *Aḥnāf* and *Mālikī* have the same point of view that it must be returned or compensated in any case.

Chapter 40. What Has Been Related About Hoarding

(المعجم ٤٠) - بَابُ مَا جَاءَ فِي الاحْتِكَارِ (التحفة ٤٠)

1267. Muḥammad bin Ibrāhīm narrated from Sa'eed bin Al-Musayyab, from Ma'mar bin 'Abdullāh bin [Naḍlah] who said: "I heard the Messenger of Allāh ﷺ saying: 'Hoarding is nothing but sin.'" So I (Muḥammad) said to Sa'eed: "O Abū Muḥammad! You hoard?" He said: "And Ma'mar would hoard." (*Ṣaḥīḥ*)

It has only been reported that Sa'eed bin Al-Musayyab would hoard oil, (camel) fodder, and the like.

[Abū 'Eīsā said:] There are narrations on this topic from 'Umar, 'Alī, Abū Umāmah, and Ibn 'Umar. The *Ḥadīth* of Ma'mar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge, they dislike hoarding food, and some of them make a concession for hoarding things other than food. Ibn Al-Mubārak said: "There is no harm in hoarding cotton, goat pelts and the like."

١٢٦٧ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا يَزِيدُ بْنُ هارُونَ: حَدَّثَنَا مُحَمَّدُ بْنُ إِسْحَاقَ عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ مَعْمَرِ بْنِ عَبْدِ اللهِ بْنِ [نَضْلَةَ]، قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «لَا يَحْتَكِرُ إِلَّا خَاطِئٌ»، فَقُلْتُ لِسَعِيدٍ: يَا أَبَا مُحَمَّدٍ إِنَّكَ تَحْتَكِرُ، قَالَ: وَمَعْمَرٌ قَدْ كانَ يَحْتَكِرُ.

وَإِنَّمَا رُوِيَ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّهُ كانَ يَحْتَكِرُ الزَّيْتَ وَالْخَبَطَ ونَحْوَ هٰذَا.

[**قَالَ أَبُو عِيسَى**:] وَفِي الْبَابِ عَنْ عُمَرَ وعَلِيٍّ وَأَبِي أُمَامَةَ، وَابْنِ عُمَرَ. وَحَدِيثُ مَعْمَرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. كَرِهُوا احْتِكارَ الطَّعَامِ. وَرَخَّصَ بَعْضُهُمْ في الاحْتِكارِ فِي غَيْرِ الطَّعَامِ. وَقَالَ ابْنُ الْمُبَارَكِ: لَا بَأْسَ بِالاحْتِكَارِ في الْقُطْنِ والسَّخْتِيَانِ وَنَحْوِ ذٰلِكَ.

تخريج: [صحيح] وأخرجه ابن ماجه، التجارات، باب الحكرة والجلب، ح:٢١٥٤ من حديث يزيد بن هارون، ومسلم، ح:١٦٠٥ من حديث سعيد بن المسيب به * وفي الباب عن عمر [ابن ماجه، ح:٢١٥٣، ٣١٥٥] وعلي [ابن أبي شيبة، ح:٦/١٠٤] وأبي أمامة [رزين كما في المشكاة، ح:٢٨٩٨ ولم أجده] وابن عمر [أحمد: ٢/٣٣].

Comments:

"Ihtikār" is hoarding. According to Ḥāfiẓ Ibn Ḥajar it means to store the grains and stop their supply in the market to make the price rise. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 253.) Most of the scholars disapprove of hoarding grains but are not against the hoarding of other things. The narrator of this narration is a Companion of the Prophet ﷺ. Ma'mar and pupil Sa'eed bin Al-Musayyab took this very meaning of this narration, and hoarded olive oil and fodder and other items. According to 'Allāmah Taqī all Four *A'immah* also have the same view. (*Tuḥfat Al-Aḥwadhī* v.2. p. 257.)

Chapter 41. What Has Been Related About Selling *Al-Muhaffalāt* (Animals That Have Not Been Milked)

(المعجم ٤١) - بَابُ مَا جَاءَ فِي بَيْعِ الْمُحَفَّلَاتِ (التحفة ٤١)

1268. Ibn 'Abbās narrated that the Prophet ﷺ said: "Do not go out to meet the market (caravan), do not leave the animals un-milked (to deceive the buyer), nor out-spend one another." (*Hasan*)

[Abū 'Eīsā said:] There are narrations on this topic from Ibn Mas'ūd and Abū Hurairah. The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge, they dislike selling the *Muḥaffalah*, and it is the *Muṣarrāh* that has not been milked by its owner in days or more than that, so the milk accumulates in its udders to impress the purchaser. This is a type of deceit and misrepresentation.

١٢٦٨ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو الأَحْوَصِ عَنْ سِمَاكٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا تَسْتَقْبِلُوا السُّوقَ، وَلَا تُحَفِّلُوا، وَلَا يُنَفِّقْ بَعْضُكُمْ لِبَعْضٍ».

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وَأَبِي هُرَيْرَةَ وَحَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، كَرِهُوا بَيْعَ الْمُحَفَّلَةِ، وَهِيَ الْمُصَرَّاةُ، لَا يَحْلُبُهَا صَاحِبُهَا أَيَّامًا أَوْ نَحْوَ ذٰلِكَ، لِيَجْتَمِعَ اللَّبَنُ فِي ضَرْعِهَا، فَيَغْتَرَّ بِهَا الْمُشْتَرِي، وَهٰذَا ضَرْبٌ مِنَ الْخَدِيعَةِ وَالْغَرَرِ.

تخريج: [حسن] وأخرجه أحمد: ١/٢٥٦ من حديث أبي الأحوص به وسنده ضعيف وللحديث شواهد * وفي الباب عن ابن مسعود [البخاري، ح:٢١٤٩ ومسلم، ح:١٥١٨] وأبي هريرة [تقدم: ١٢٥١، ١٢٥٢].

Chapter 42. What Was Been Related About The False Oath To Deprive The Muslim Of His Wealth

(المعجم ٤٢) - بَابُ مَا جَاءَ فِي الْيَمِينِ الْفَاجِرَةِ يُقْتَطَعُ بِهَا مَالُ الْمُسْلِمِ (التحفة ٤٢)

1269. 'Abdullāh bin Mas'ūd narrated that the Messenger of Allāh ﷺ said: "Whoever takes a false oath to deprive a Muslim of his wealth, he will meet Allāh while He is angry with him."

Al-Ash'ath bin Qais said: "It is about me, by Allāh! There was a dispute about some land between myself and a man from the Jews who denied my ownership of it, so I took him to the Prophet ﷺ. the Messenger of Allāh ﷺ said to me: 'Do you have any proof?' I said: 'No.' So he said to the Jew: 'Take an oath.' I said: 'O Messenger of Allāh! If he takes an oath then my property will be gone!' So Allāh, Most High revealed: Verily those who purchase a small gain at the cost of Allāh's Covenant and their oaths... until the end of the *Āyah*"[1] (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from Wā'il bin Ḥujr, Abū Mūsā, Abū Umāmah bin Tha'labah Al-Anṣārī, and 'Imrān bin Ḥuṣain. The *Ḥadīth* of Ibn Mas'ūd is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

١٢٦٩ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الأَعْمَشِ، عَنْ شَقِيقِ بْنِ سَلَمَةَ، عَنْ عَبْدِ اللهِ بْنِ مَسْعُودٍ، قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ حَلَفَ عَلَى يَمِينٍ وهُوَ فِيهَا فَاجِرٌ، لِيَقْتَطِعَ بِهَا مَالَ امْرِىءٍ مُسْلِمٍ، لَقِيَ اللهَ وهُوَ عَلَيْهِ غَضْبَانُ».

فَقَالَ الأَشْعَثُ بْنُ قَيْسٍ: فِيَّ، وَاللهِ لَقَدْ كانَ ذَلِكَ، كانَ بَيْنِي وبَيْنَ رَجُلٍ مِنَ الْيَهُودِ أَرْضٌ فَجَحَدَنِي، فَقَدَّمْتُهُ إِلَى النَّبِيِّ ﷺ. فَقَالَ لِي رَسُولُ اللهِ ﷺ: «أَلَكَ بَيِّنَةٌ»؟ فَقُلْتُ: لَا، فَقَالَ لِلْيَهُودِيِّ: «احْلِفْ» فَقُلْتُ: يَا رَسُولَ اللهِ إِذَنْ يَحْلِفَ فَيَذْهَبَ بِمَالِي، فَأَنْزَلَ اللهُ تَعالَى: ﴿إِنَّ ٱلَّذِينَ يَشْتَرُونَ بِعَهْدِ ٱللَّهِ وَأَيْمَٰنِهِمْ ثَمَنًا قَلِيلًا﴾ إِلَى آخِرِ الآيَةِ [آل عمران: ٧٧].

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنْ وَائِلِ ابْنِ حُجْرٍ، وَأَبِي مُوسَى وَأَبِي أُمَامَةَ بْنِ ثَعْلَبَةَ الأَنْصَارِيِّ وعِمْرَانَ بْنِ حُصَيْنٍ. وحَدِيثُ ابْنِ مَسْعُودٍ، حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، المساقاة، باب الخصومة في البئر والقضاء فيها، ح:٢٣٥٦ ومسلم، ح:١٣٨ من حديث الأعمش به، وأبو داود، ح:٣٢٤٣ عن هناد، والبخاري، ح:٢٤١٦ من حديث أبي معاوية الضرير به * وفي الباب عن وائل بن حجر [مسلم، ح:١٣٩] وأبي موسى [لعله يشير إلى الحديث الآتي:١٨٢٧ وانظر مسند الإمام أحمد:٤/ ٣٩٤] وأبي أمامة ابن ثعلبة الأنصاري [مسلم، ح:١٣٧] وعمران بن حصين [أبو داود، ح:٣٢٤٢].

[1] *Āl 'Imrān* 3:77.

Comments:

This narration is a proof that if there is a dispute between two persons the claimant has to produce two witnesses in his favor, and if he fails to produce, the respondent will take an oath, and the decision will be given on the oath of the respondent, whether he swore a true oath or false.

Chapter 43. What Has Been Related About When The Buyer And Seller Disagree

(المعجم ٤٣) - بَابُ مَا جَاءَ إِذَا اخْتَلَفَ الْبَيِّعَانِ (التحفة ٤٣)

1270. Ibn Mas'ūd narrated that the Messenger of Allāh ﷺ said: "When the two parties (in a deal) disagree then the seller's statement is taken as valid, and the purchaser retains the option." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Mursal.* 'Awn bin 'Abdullāh did not see Ibn Mas'ūd. This *Ḥadīth* has also been reported from Al-Qāsim bin 'Abdur-Raḥmān, from Ibn Mas'ūd, from the Prophet ﷺ. But that is also *Mursal.*

[Abū 'Eīsā said:] [Isḥāq] Ibn Manṣūr said: "I said to Aḥmad: what if when the two parties disagree and there is no proof (what is done)?' He said: 'The saying of the owner of the merchandise is taken as valid or they both refuse.' And Isḥāq said as he did, and that in every case where his saying is taken, he must swear.'"

[Abū 'Eīsā said:] Similar to this has been reported from some of [the people of knowledge among] the *Tābi'īn*, Shuraiḥ is among those.

١٢٧٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ عَنِ ابْنِ عَجْلَانَ، عَنْ عَوْنِ بْنِ عَبْدِ اللهِ، عَنِ ابْنِ مَسْعُودٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا اخْتَلَفَ الْبَيِّعَانِ، فَالْقَوْلُ قَوْلُ الْبَائِعِ، وَالْمُبْتَاعُ بِالْخِيَارِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ مُرْسَلٌ، عَوْنُ بْنُ عَبْدِ اللهِ لَمْ يُدْرِكِ ابْنَ مَسْعُودٍ. وَقَدْ رُوِيَ عَنِ القَاسِمِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنِ ابْنِ مَسْعُودٍ عَنِ النَّبِيِّ ﷺ هٰذَا الحَدِيثُ أَيْضًا. وهُوَ مُرْسَلٌ أَيْضًا.

[قَالَ أَبُو عِيسَى:] قَالَ [إِسْحَاقُ] بْنُ مَنْصُورٍ: قُلْتُ لِأَحْمَدَ: إِذَا اخْتَلَفَ البَيِّعَانِ وَلَمْ تَكُنْ بَيِّنَةٌ؟ قَالَ: القَوْلُ مَا قَالَ رَبُّ السِّلْعَةِ، أَوْ يَتَرَادَّانِ. قَالَ إِسْحَاقُ: كَمَا قَالَ، وكُلُّ مَنْ كانَ القَوْلُ قَوْلَهُ، فَعَلَيْهِ اليَمِينُ.

[قَالَ أَبُو عِيسَى:] وَقَدْ رُوِيَ نَحْوُ هٰذَا عَنْ بَعْضِ [أَهْلِ الْعِلْمِ مِنَ] التَّابِعِينَ مِنْهُمْ شُرَيْحٌ.

تخريج: [حسن] وأخرجه أحمد: ١/٤٦٦ من حديث محمد بن عجلان به وصرح بالسماع، وصححه ابن الجارود، ح: ٦٢٥ والحاكم: ٢/٤٥ والذهبي وحسنه البيهقي: ٥/٣٣٢ ورواه أبو داود، ح: ٣٥١١ والنسائي، ح: ٤٦٥٢ من حديث ابن مسعود به وللحديث شواهد كثيرة عند أبي داود، ح: ٣٥١٢ وغيره.

Comments:

The basic cause of dispute is not clear in this narration. Disagreement of the parties was on the commodity itself, or on its price, or on some condition put on it. Many of the scholars generalize the application of this narration. This narration is applicable to all kinds of disputes, and according to 'Allāmah Ibn Qudāmah, if someone has no witness, then both of the parties will take an oath.

Chapter 44. What Has Been Related About Selling Surplus Water

(المعجم ٤٤) - بَابُ مَا جَاءَ فِي بَيْعِ فَضْلِ الْمَاءِ (التحفة ٤٤)

1271. Abū Al-Minhāl narrated from Iyās bin 'Abd Al-Muzanī who said: "The Prophet ﷺ prohibited selling water." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Jābir, Buhaisah from her father, Abū Hurairah, 'Āishah, Anas, and 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] The *Ḥadīth* of Iyās is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to most of the people of knowledge; they dislike selling water. This is the view of Ibn Al-Mubārak, Ash-Shāfi'ī, Aḥmad and Isḥāq. Some of the people of knowledge permitted selling water, Al-Ḥasan Al-Baṣrī is one of them.

١٢٧١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا دَاوُدُ بْنُ عَبْدِ الرَّحْمٰنِ الْعَطَّارُ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ أَبِي الْمِنْهَالِ، عَنْ إِيَاسِ بْنِ عَبْدِ الْمُزَنِيِّ قَالَ: نَهَى النَّبِيُّ ﷺ عَنْ بَيْعِ الْمَاءِ.

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَبُهَيْسَةَ، عَنْ أَبِيهَا، وَأَبِي هُرَيْرَةَ وعَائِشَةَ وَأَنَسٍ وَعَبْدِ اللهِ بْنِ عَمْرٍو.

[**قَالَ أَبُو عِيسَى:**] حَدِيثُ إِيَاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، أَنَّهُمْ كَرِهُوا بَيْعَ الْمَاءِ. وَهُوَ قَوْلُ ابْنِ الْمُبَارَكِ والشَّافِعِيِّ وَأَحْمَدَ وَإِسْحَاقَ، وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي بَيْعِ الْمَاءِ. مِنْهُمُ الْحَسَنُ الْبَصْرِيُّ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، البيوع، باب: في بيع فضل الماء، ح:٣٤٧٨ من حديث داود العطار به ورواه النسائي، ح:٤٦٦٦ عن قتيبة وابن ماجه، ح:٢٤٧٦ من حديث عمرو بن دينار به وصححه ابن الجارود، ح:٥٩٤ وابن حبان، ح:١١١٧ والحاكم: ٢/ ٤٤، ٦١ * وفي الباب عن جابر [ابن ماجه، ح:١٥٣٠] وبهيسة عن أبيها [أبو داود، ح:١٦٦٩، ٣٤٧٦] وأبي هريرة [يأتي: ١٢٧٢] وعائشة [ابن ماجه، ح:٢٤٧٩] وأنس [الطبراني في الصغير: ١/ ٢٤٢] وعبدالله ابن عمرو [أحمد: ٢/ ١٧٩، ٢٢١ والطبراني في الأوسط، ح:١٢١٧].

Comments:

Some of the scholars, in the context of this narration have taken the word 'water' in its entirety to mean water of all kinds, and in all senses, and they have prohibited its sale. According to Ibn Ḥazm and Imām Shawkānī, sale of water is unlawful. The correct sense of the word 'water' in this narration

seems to be the water which is free for all, and no one has to toil for bringing it up to the place of use. But the water brought from far off places by rented transport or by other means with an expenditure on it, can be sold. (For details see *Nayl Al-Awtār* v. 5. p. 259.)

1272. Abū Hurairah narrated that the Prophet ﷺ said: "Do not withhold surplus water so that it is prevented from the pasture." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[Abū Al-Munhāl's name is 'Abdur-Raḥmān bin Muṭ'im, he is from Al-Kūfah, and he is the one that Ḥabīb bin Abī Thābit reports from. Abū Al-Munhāl Sayyār bin Salāmah is from Al-Baṣrah, he is the companion of Abū Barzah Al-Aslamī.]

١٢٧٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا يُمْنَعُ فَضْلُ الْمَاءِ، لِيُمْنَعَ بِهِ الْكَلأُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[وَأَبُو الْمِنْهَالِ اسْمُهُ عَبْدُ الرَّحْمٰنِ بْنُ مُطْعِمٍ: كُوفِيٌّ، وَهُوَ الَّذِي رَوَى عَنْهُ حَبِيبُ ابْنُ أَبِي ثَابِتٍ، وأَبُو الْمِنْهَالِ سَيَّارُ بْنُ سَلَامَةَ، بَصْرِيٌّ صَاحِبُ أَبِي بَرْزَةَ الأَسْلَمِيِّ].

تخريج: متفق عليه، وأخرجه مسلم، المساقاة، باب تحريم بيع فضل الماء الذي يكون بالفلاة ... إلخ، ح:١٥٦٦ عن قتيبة والبخاري، ح:٢٣٥٣ من حديث أبي الزناد به.

Comments:

One who has a well or source of water near a pasture, he is not allowed to put restrictions on his surplus water. He should allow the people to use the water for their animals and domestic needs.

Chapter 45. What Has Been Related About It Being Disliked To Sell The Sperm Of A Stallion

(المعجم ٤٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ عَسْبِ الْفَحْلِ (التحفة ٤٥)

1273. Ibn 'Umar narrated: "The Prophet ﷺ prohibited studding the stallion." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Abū Hurairah, Anas, and Abū Sa'eed.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge.

١٢٧٣ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ وَأَبُو عَمَّارٍ قَالَا: حَدَّثَنَا إِسْمَاعِيلُ ابْنُ عُلَيَّةَ [قَالَ]: حَدَّثَنَا عَلِيُّ بْنُ الْحَكَمِ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، قَالَ: نَهَى النَّبِيُّ ﷺ عَنْ عَسْبِ الْفَحْلِ.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَأَنَسٍ وَأَبِي سَعِيدٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ

There are those who made a concession for accepting an honorarium for that.

حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَقَدْ رَخَّصَ قَوْمٌ فِي قَبُولِ الْكَرَامَةِ عَلَى ذٰلِكَ.

تخريج: وأخرجه البخاري، الإجارة، باب عسب الفحل، ح:٢٢٨٤ من حديث إسماعيل ابن علية به * وفي الباب عن أبي هريرة [النسائي، ح:٤٦٧٧] وأنس [يأتي:١٢٧٤] وأبي سعيد [النسائي:٧/ ٣١١، ح:٤٦٧٨].

Comments:

In the view of Imām Abū Hanīfah, Imām Shāfi'ī and Imām Ahmad, the owner of the male animal is not allowed to take money or rent it out for mating purposes. In the view of Imām Mālik this is prohibited only because it is against the general welfare of the community. Norms of a civilized society do not allow receiving money for such purposes.

1274. Anas bin Mālik narrated: "A man from (the tribe of) Kilāb asked the Messenger of Allāh ﷺ about studding a stallion and he prohibited it. So he said: 'O Messenger of Allāh! We stud the stallions so that we get honorarium (from the owners of the female horse)!' So he permitted it for the honorarium." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*, we do not know of it except as a narration of Ibrāhīm bin Humaid, from Hishām bin 'Urwah.

١٢٧٤ - حَدَّثَنَا عَبْدَةُ بْنُ عَبْدِ اللهِ الْخُزَاعِيُّ الْبَصْرِيُّ: حَدَّثَنَا يَحْيَى بْنُ آدَمَ عَنْ إِبْرَاهِيمَ بْنِ حُمَيْدٍ الرُّؤَاسِيِّ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ التَّيْمِيِّ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ رَجُلًا مِنْ كِلَابٍ سَأَلَ رَسُولَ اللهِ ﷺ عَنْ عَسْبِ الفَحْلِ، فَنَهَاهُ، فَقَالَ: يَا رَسُولَ اللهِ إِنَّا نُطْرِقُ الفَحْلَ فَنُكْرَمُ. فَرَخَّصَ لَهُ في الكَرَامَةِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ إِبْرَاهِيمَ بْنِ حُمَيْدٍ عَنْ هِشَامِ بْنِ عُرْوَةَ.

تخريج: [صحيح] وأخرجه النسائي:٣/ ٣١٠، ح:٤٦٧٦ (البيوع، باب بيع ضراب الجمل) من حديث يحيى بن آدم به وللحديث شواهد.

Comments:

If some gift is given to the owner of the male animal, it can be accepted. Giving a gift is not a compulsion nor is this a fee for the male. This view is considered the correct view.

Chapter 46. What Has Been Related About The Price Of A Dog

(المعجم ٤٦) - بَابُ مَا جَاءَ فِي ثَمَنِ الْكَلْبِ (التحفة ٤٦)

1275. Rāfi' bin Khadīj narrated that the Messenger of Allāh ﷺ

١٢٧٥ - حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ: حَدَّثَنَا

عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ اللهِ بْنِ قَارِظٍ، عَنِ السَّائِبِ بْنِ يَزِيدَ، عَنْ رَافِعِ بْنِ خَدِيجٍ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «كَسْبُ الْحَجَّامِ خَبِيثٌ، وَمَهْرُ الْبَغِيِّ خَبِيثٌ، وثَمَنُ الكَلْبِ خَبِيثٌ».

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ [وعَلِيٍّ] وابْنِ مَسْعُودٍ [وَأَبِي مَسْعُودٍ] وَجَابِرٍ وأَبِي هُرَيْرَةَ وَابْنِ عَبَّاسٍ وَابْنِ عُمَرَ وَعَبْدِ اللهِ بْنِ جَعْفَرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ رَافِعٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، كَرِهُوا ثَمَنَ الكَلْبِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وَأَحْمَدَ وإِسْحَاقَ. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي ثَمَنِ كَلْبِ الصَّيْدِ.

said: "The earnings of the cupper is filth, the earnings of the fornicator (from harlotry) is filth, and the price of a dog is filth." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Umar, ['Alī], Ibn Mas'ūd, [Abū Mas'ūd], Jābir, Abū Hurairah, Ibn 'Abbās, Ibn 'Umar, and 'Abdullāh bin Ja'far.

[Abū 'Eīsā said:] The *Ḥadīth* of Rāfi' is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to most of the people of knowledge, they disliked the price of a dog. This is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq. Some of the people of knowledge permitted the price of the hunting dog.

تخريج: وأخرجه مسلم، المساقاة، باب تحريم ثمن الكلب، وحلوان الكاهن ... إلخ، ح:١٥٦٨ من حديث عبدالرزاق به * وفي الباب عن عمر [ابن عدي في الكامل:٧/ ٢٧١٦] وعلي وابن مسعود [لم أجده] وأبي مسعود [يأتي:١٢٧٦] وجابر [مسلم، ح:١٥٦٩] وأبي هريرة [ابن حبان، ح:١١١٨ والبيهقي:٦/٦] وابن عباس [أبو داود، ح:٣٤٨٢] وابن عمر [الطبراني في الأوسط:٦/ ٢٦٢، ح:٥٥٥٧] وعبدالله بن جعفر [الحاكم: ٣/ ٥٦٨] وحديث عبدالله بن عمرو عند الحاكم:٢/ ٣٣.

Comments:

Fornication is one of the greatest sins and the earnings of a fornicator is unanimously agreed upon as unlawful. The earnings of the soothsayer are also unlawful.

١٢٧٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ؛ ح: وحَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ المَخْزُومِيُّ وَغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ أَبِي بَكْرِ ابْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي مَسْعُودٍ

1276. Abū Mas'ūd Al-Anṣārī narrated: "The Messenger of Allāh ﷺ prohibited the price of a dog, the earnings of the fornicator (from harlotry), and the news of the fortune-teller."[1] (*Ṣaḥīḥ*)

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[1] This *Ḥadīth* preceded, no. 1133.

الأَنْصَارِيِّ، قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ ثَمَنِ الكَلْبِ وَمَهْرِ البَغِيِّ وَحُلْوَانِ الكَاهِنِ.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، المساقاة، باب تحريم ثمن الكلب، وحلوان الكاهن ... إلخ، ح:١٥٦٧ عن قتيبة والبخاري، ح:٥٣٤٦ من حديث سفيان بن عيينة به.

Chapter 47. What Has Been Related About The Earnings Of The Cupper

(المعجم ٤٧) - بَابُ مَا جَاءَ فِي كَسْبِ الْحَجَّامِ (التحفة ٤٧)

1277. Ibn Muḥayyṣah of Banū Ḥārithah narrated from his father, that he sought permission from the Prophet ﷺ to take the wages for cupping and he ﷺ forbade him from it. He continued asking him and seeking his permission until he said: "Use it to give fodder to your water-carrying camels, and to feed your slaves." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Rāfi' bin Khadīj, Abū Juḥaifah, Jābir, and As-Sā'ib [bin Yazīd].

[Abū 'Eīsā said:] The *Ḥadīth* of Muḥayyiṣah is a *Ḥasan* [*Ṣaḥīḥ*] *Ḥadīth*. This is acted upon according to some of the people of knowledge. Aḥmad said: "If I am asked for something by the cupper then I deny him, acting upon this *Ḥadīth*.

١٢٧٧ - حَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكِ بْنِ أَنَسٍ، عَنِ ابْنِ شِهَابٍ، عَنِ ابْنِ مُحَيِّصَةَ أَخِي بَنِي حَارِثَةَ، عَنْ أَبِيهِ، أَنَّهُ اسْتَأْذَنَ النَّبِيَّ ﷺ فِي إِجَارَةِ الْحَجَّامِ فَنَهَاهُ عَنْهَا، فَلَمْ يَزَلْ يَسْأَلُهُ وَيَسْتَأْذِنُهُ حَتَّى قَالَ: «اعْلِفْهُ نَاضِحَكَ، وَأَطْعِمْهُ رَقِيقَكَ».

[قَالَ:] وَفِي الْبَابِ عَنْ رَافِعِ بْنِ خَدِيجٍ وَأَبِي جُحَيْفَةَ، وَجَابِرٍ، وَالسَّائِبِ [بْنِ يَزِيدَ].

[قَالَ أَبُو عِيسَى:] حَدِيثُ مُحَيِّصَةَ حَدِيثٌ حَسَنٌ [صَحِيحٌ] وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَقَالَ أَحْمَدُ: إِنْ سَأَلَنِي حَجَّامٌ نَهَيْتُهُ، وَآخُذُ بِهٰذَا الْحَدِيثِ.

تخريج: [صحيح] وأخرجه أبو داود، البيوع، باب: في كسب الحجام، ح:٣٤٢٢ من حديث مالك به وهو في الموطأ:٢/ ٩٧٤ (يحيى) وصححه ابن حبان، ح:١١٢١ وللحديث شاهد عند الحميدي، ح:١٢٩٣ وغيره * وفي الباب عن رافع بن خديج [تقدم:١٢٧٥] وأبي جحيفة [البخاري، ح:٢٠٨٦] وجابر [أحمد:٣/٣٠٧ والحميدي، ح:١٢٩٣ (بتحقيقي)] والسائب بن يزيد [ابن أبي حاتم في علل الحديث:٤٤٤، ح:٣٩].

Chapter 48. What Has Been Related About Permitting The Earnings Of A Cupper

(المعجم ٤٨) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي كَسْبِ الْحَجَّامِ (التحفة ٤٨)

1278. Anas narrated: "The Messenger of Allāh ﷺ was cupped; Abū Ṭaibah did the cupping. So he ordered that he be given two *Ṣā'* of food, and he spoke to his masters to reduce his taxes. He said: 'The most virtuous of what you treat with is cupping.' Or, he said: 'The best of your treatements is cupping.'" (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Alī, Ibn 'Abbās, and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Some of the people of knowledge among the Companions of the Prophet ﷺ, and others permitted paying the cupper. This is the view of Ash-Shāfi'ī.

١٢٧٨ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ حُمَيْدٍ قَالَ: سُئِلَ أَنَسٌ عَنْ كَسْبِ الْحَجَّامِ؟ فَقَالَ أَنَسٌ: احْتَجَمَ رَسُولُ اللهِ ﷺ، وَحَجَمَهُ أَبُو طَيْبَةَ، فَأَمَرَ لَهُ بِصَاعَيْنِ مِنْ طَعَامٍ وَكَلَّمَ أَهْلَهُ فَوَضَعُوا عَنْهُ مِنْ خَرَاجِهِ، وَقَالَ: «إِنَّ أَفْضَلَ مَا تَدَاوَيْتُمْ بِهِ الْحِجَامَةُ» أَوْ «إِنَّ مِنْ أَمْثَلِ دَوَائِكُمُ الْحِجَامَةَ».

[قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وابْنِ عَبَّاسٍ وَابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ فِي كَسْبِ الْحَجَّامِ. وَهُوَ قَوْلُ الشَّافِعِيِّ.

تخريج: وأخرجه مسلم، المساقاة، باب حل أجرة الحجامة، ح:١٥٧٧ عن علي بن حجر والبخاري، ح:٥٦٩٦ من حديث حميد الطويل به * وفي الباب عن علي [الترمذي في الشمائل، ح:٣٦٠] وابن عباس [البخاري، ح:٥٦٩٩ ومسلم، ح:١٢٠٢ والترمذي في الشمائل، ح:٣٦١] وابن عمر [الترمذي في الشمائل، ح:٣٦٢].

Comments:

According to Imām Nawawī most of the people of knowledge among the Companions of the Prophet ﷺ and their followers have allowed one to adopt this profession. According to some, a free man should not adopt this profession but a slave is allowed.

Chapter 49. What Has Been Related About The Price Of A Dog And A Cat

(المعجم ٤٩) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ ثَمَنِ الْكَلْبِ وَالسِّنَّوْرِ (التحفة ٤٩)

1289. Jābir narrated: "The Messenger of Allāh ﷺ prohibited the price of the dog and the cat." (***Ṣaḥīḥ***)

١٢٧٩ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ وَعَلِيُّ بْنُ خَشْرَمٍ قَالَا: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنِ

الأَعْمَشِ، عَنْ أَبِي سُفْيَانَ، عَنْ جَابِرٍ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ ثَمَنِ الْكَلْبِ وَالسِّنَّوْرِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ فِي إِسْنَادِهِ اضْطِرَابٌ. [ولَا يَصِحُّ فِي ثَمَنِ السِّنَّوْرِ] وَقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنِ الأَعْمَشِ، عَنْ بَعْضِ أَصْحَابِهِ، عَنْ جَابِرٍ. وَاضْطَرَبُوا عَلَى الأَعْمَشِ فِي رِوَايَةِ هٰذَا الْحَدِيثِ، وَقَدْ كَرِهَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ ثَمَنَ الْهِرِّ، وَرَخَّصَ فِيهِ بَعْضُهُمْ. وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. وَرَوَى ابْنُ فُضَيْلٍ، عَنِ الأَعْمَشِ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ، مِنْ غَيْرِ هذَا الوَجْهِ.

[Abū 'Eīsā said:] There is some confusion (*Iḍṭirāb*) in the chain for this *Ḥadīth*. [The price of a cat is not correct]. This *Ḥadīth* has been reported from Al-A'mash, from some of his companions, from Jābir, and they caused some confusion for Al-A'mash in this narration.

There are those among the people of knowledge who disliked the price of a cat, and some of them permitted it. This is the view of Aḥmad and Isḥāq. It has been reported from Ibn Al-Fuḍail, from Al-A'mash, from Abū Ḥāzim, from Abū Hurairah from the Prophet ﷺ, through other than this route.

تخريج: [صحيح] وأخرجه أبو داود، البيوع، باب: في ثمن السنور، ح:٣٤٧٩ من حديث عيسى بن يونس به وله طريق آخر عند مسلم، ح:١٥٦٩ وابن ماجه، ح:٢١٦١ عن جابر به، وصححه ابن الجارود، ح:٥٨٠ والحاكم:٢/ ٣٤ على شرط مسلم ووافقه الذهبي وللحديث شواهد.

Comments:

Some Companions of the Prophet ﷺ and their followers have disapproved of accepting the price of a cat. Most of the scholars and all Four *A'immah* consider this prohibition just a counsel and caution and no more. Taking the price of a cat is allowed but it is against good manners and politeness.

١٢٨٠ - حَدَّثَنَا يَحْيَى بْنُ مُوسَى: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا عُمَرُ بْنُ زَيْدٍ الصَّنْعَانِيُّ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ، قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ أَكْلِ الْهِرِّ وَثَمَنِهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ وَعُمَرُ بْنُ زَيْدٍ، لَا نَعْرِفُ كَبِيرَ أَحَدٍ رَوَى عَنْهُ، غَيْرَ عَبْدِ الرَّزَّاقِ.

1280. Jābir narrated: "The Messenger of Allāh ﷺ prohibited eating the cat and from its price." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*. We do not know of any major (known) narrators who reports from 'Umar bin Zaid (one of the narrators) besides 'Abdur-Razzāq.

تخريج: [صحيح] وأخرجه أبو داود، البيوع، باب: في ثمن السنور، ح:٣٤٨٠ وابن ماجه، ح:٣٢٥٠ من حديث عبدالرزاق به وهو في المصنف له، ح:٨٧٤٩ وسنده ضعيف وللحديث شواهد عند مسلم، ح:١٥٦٩ (المساقاة:٩) وغيره * عمر بن زيد الصنعاني ضعيف.

Chapter 50. Permission Regarding The Price Of A Hunting Dog

(المعجم ٥٠) - بَابُ [الرُّخْصَةِ فِي ثَمَنِ كَلْبِ الصَّيْدِ] (التحفة ٥٠)

1281. Abū Al-Muhazzim narrated from Abū Hurairah who said: "The price of a dog was prohibited, except for the hunting dog." *(Ḍa'īf)*

[Abū 'Eīsā said:] This *Ḥadīth* is not correct from this route. Abū Al-Muhazzim's name is Yazīd bin Sufyān, and Shu'bah bin Al-Ḥajjāj criticized him [and graded him weak]. Similar to this has been reported from Jābir, from the Prophet ﷺ, but its chain is also not correct.

١٢٨١ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ أَبِي الْمُهَزِّمِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى عَنْ ثَمَنِ الْكَلْبِ، إِلَّا كَلْبَ الصَّيْدِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا يَصِحُّ مِنْ هٰذَا الْوَجْهِ. وأَبُو الْمُهَزِّمِ اسْمُهُ يَزِيدُ بْنُ سُفْيَانَ، وَتَكَلَّمَ فِيهِ شُعْبَةُ بْنُ الْحَجَّاجِ [وَضَعَّفَهُ] وَ[قَدْ] رُوِيَ عَنْ جَابِرٍ عَنِ النَّبِيِّ ﷺ، نَحْوُ هٰذَا. ولَا يصِحُّ إِسْنَادُهُ أَيْضًا.

تخريج: [إسناده ضعيف] * أبوالمهزم ضعيف جدًا متروك، وللحديث شواهد، كلها ضعيفة.

Comments:

See the discussion about the weakness of this narration and the person who seconds it. (See *Zād Al-Ma'ād* v. 5. p. 682-685.)

Chapter 51. What Has Been Related About It Being Disliked To Sell Singers

(المعجم ٥١) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الْمُغَنِّيَاتِ (التحفة ٥١)

1282. Abū Umāmah narrated that the Messenger of Allāh ﷺ said: "Do not sell the (slave) female singers, nor purchase them, nor teach them (to sing). And there is no good in trading in them, and their prices are unlawful. It was about the likes of this that this *Āyah* was revealed: And among mankind is he who purchases idle talk to divert from the way of Allāh."[1] *(Ḍa'īf)*

[He said:] There is narration about this from 'Umar bin Al-

١٢٨٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا بَكْرُ بْنُ مُضَرَ عَنْ عُبَيْدِ اللهِ بْنِ زَحْرٍ، عَنْ عَلِيِّ بْنِ يَزِيدَ، عَنِ الْقَاسِمِ، عَنْ أَبِي أُمَامَةَ عَنْ رَسُولِ اللهِ ﷺ قَالَ: «لَا تَبِيعُوا الْقَيْنَاتِ وَلَا تَشْتَرُوهُنَّ، ولَا تُعَلِّمُوهُنَّ، وَلَا خَيْرَ فِي تِجَارَةٍ فِيهِنَّ، وَثَمَنُهُنَّ حَرَامٌ، فِي مِثْلِ هٰذَا أُنْزِلَتْ هَذِهِ الآيَةُ ﴿وَمِنَ ٱلنَّاسِ مَن يَشْتَرِى لَهْوَ ٱلْحَدِيثِ لِيُضِلَّ عَن سَبِيلِ ٱللَّهِ﴾ إِلَى آخِرِ الآيَةِ» [لقمان: ٦].

[1] *Luqmān* 31:6.

Khattāb.

[Abū 'Eīsā said:] We only know of the *Hadīth* of Abū Umāmah, like this, from this route. Some of the people of knowledge have criticized 'Alī bin Yazīd (one of the narrators) and graded him weak, and he is from Ash-Shām.

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ بْنِ الْخَطَّابِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي أُمَامَةَ، إِنَّمَا نَعْرِفُهُ مِثْلَ هٰذَا مِنْ هٰذَا الْوَجْهِ، وَقَدْ تَكَلَّمَ بَعْضُ أَهْلِ الْعِلْمِ فِي عَلِيِّ بنِ يَزِيدَ وَضَعَّفَهُ، وَهُوَ شَامِيٌّ.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ٥/ ٢٦٤ من حديث بكر بن مضر، وابن ماجه، ح: ٢١٦٨ من حديث أبي أمامة به * علي بن يزيد متروك * وفي الباب عن عمر بن الخطاب [الطبراني في الكبير: ١/ ٧٣، ح: ٨٧].

Comments:

'Qaynah' means female singer. Here it means the slave girl who is a singer. As music and singing is prohibited, therefore, buying and selling a singing slave girl is also prohibited, otherwise the buying or selling of slaves is allowed. (*Tuhfat Al-Ahwadhī*. v.2. p. 259.)

Chapter 52. What Has Been Related About It Being Disliked To Separate Brothers, And A Mother And Her Child In Sales

(المعجم ٥٢) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْفَرْقِ بَيْنَ الْأَخَوَيْنِ أَوْ بَيْنَ الْوَالِدَةِ وَوَلَدِهَا فِي الْبَيْعِ (التحفة ٥٢)

1283. Abū Ayyūb narrated: "I heard the Messenger of Allāh ﷺ saying: 'Whoever seperates a mother from her child, Allāh seperates him and his most beloved on the Day of Judgement.'" (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*.

١٢٨٣ - حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ الشَّيْبَانِيُّ: حَدَّثَنَا عَبْدُ اللهِ بْنُ وَهْبٍ [قَالَ]: أَخْبَرَنِي حُيَيُّ ابْنُ عَبْدِ اللهِ عَنْ أَبِي عَبْدِ الرَّحْمٰنِ [الْحُبُلِيِّ]، عَنْ أَبِي أَيُّوبَ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ فَرَّقَ بَيْنَ الوالدَةِ وَوَلَدِهَا، فَرَّقَ اللهُ بَيْنَهُ وَبَيْنَ أَحِبَّتِهِ يَوْمَ الْقِيَامَةِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

تخريج: [إسناده حسن] وأخرجه الدارقطني: ٣/ ٦٧، ح: ٣٠٢٨ من حديث ابن وهب وأحمد: ٥/ ٤١٢-٤١٤ من حديث حُيي بن عبدالله به وصححه الحاكم: ٢/ ٥٥ على شرط مسلم، وسيأتي: ١٥٦٦.

Comments:

Relatives, like two brothers, a brother and sister, mother and her child; have very deep and strong feelings of love for each other. They are mutually interdependent, so it is not approved to separate them by selling one of them

or giving one of them as a gift. When they are able to live independently, then it is allowed to sell them.

1284. 'Alī narrated: "The Messenger of Allāh ﷺ gave me two boys who were brothers, so I sold one of them, and the Messenger of Allāh ﷺ said to me: 'O 'Alī! What happened to your boy?' So I informed him, and he said: 'Return him, return him.'" ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. Some of the people of knowledge among the Companions of the Prophet ﷺ and others, disliked separating between the captives when selling them.

Some of the people of knowledge permitted separating the children that were born in the land of Islām, but the first view is more correct. It has been related that Ibrāhīm An-Nakha'ī seperated a mother and her child in a sale, so he was asked about that. He said: "I sought her permission for that and she approved."

١٢٨٤ - **حَدَّثَنَا** الحَسَنُ بْنُ [عَرَفَةَ]: أَخْبَرَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنِ الحَجَّاجِ، عَنِ الحَكَمِ، عَنْ مَيْمُونِ بْنِ أَبِي شَبِيبٍ، عَنْ عَلِيٍّ قَالَ: وَهَبَ لِي رَسُولُ اللهِ ﷺ غُلَامَيْنِ أَخَوَيْنِ، فَبِعْتُ أَحَدَهُمَا، فقَالَ لِي رَسُولُ اللهِ ﷺ: «يَا عَلِيُّ! مَا فَعَلَ غُلَامُكَ»؟ فَأَخْبَرْتُهُ فَقَالَ: «رُدَّهُ، رُدَّهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، وَقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، التَّفْرِيقَ بَيْنَ السَّبْيِ فِي الْبَيْعِ.

وَرَخَّصَ بَعْضُ أَهْلِ العِلْمِ فِي التَّفْرِيقِ بَيْنَ الْمُوَلَّدَاتِ الَّذِين وُلِدُوا فِي أَرْضِ الإِسْلَامِ. والقَوْلُ الأَوَّلُ أَصَحُّ. وَرُوِيَ عَنْ إِبْرَاهِيمَ [النَّخَعِيِّ] أَنَّهُ فَرَّقَ بَيْنَ وَالِدَةٍ وَوَلَدِهَا فِي الْبَيْعِ، فَقِيلَ لَهُ فِي ذَلِكَ؟ فَقَالَ: إِنِّي قَدِ اسْتَأْذَنْتُهَا فِي ذٰلِكَ، فَرَضِيَتْ.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، التجارات، باب النهي عن التفريق بين السبي، ح:٢٢٤٩ من حديث حماد بن سلمة به وصححه الحاكم:٢/ ٥٤ ميمون لم يدرك عليًّا كما قال أبو داود، ح:٢٦٩٦ وللحديث شواهد ضعيفة عند البيهقي:٩/ ١٢٧ وغيره وصححه الحاكم.

Comments:

It is correct that a mother and her child or two brothers should not be separated by selling one of them, or giving one of them as gift to someone since they are interdependent. Separation may cause severe problems for them. Some of the scholars say that they can be separated if there is need for it. When they reach the age of maturity they can be separated. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 259-260.)

Chapter 53. What Has Been Related About Someone Who Purchases A Slave And He Profited From Him, Then He Found A Defect In Him

(المعجم ٥٣) - بَابُ مَا جَاءَ فِيمَنْ يَشْتَرِي الْعَبْدَ وَيَسْتَغِلُّهُ ثُمَّ يَجِدُ بِهِ عَيْبًا (التحفة ٥٣)

1285. 'Āishah narrated that the Messenger of Allāh ﷺ judged: "The produce is for the responsible one." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*]. This *Ḥadīth* has been reported through routes other than this, and this is acted upon according to the people of knowledge.

١٢٨٥ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا عُثْمَانُ بْنُ عُمَرَ وأَبُو عَامِرٍ العَقَدِيُّ عَنِ ابْنِ أَبِي ذِئْبٍ، عَنْ مَخْلَدِ بْنِ خُفَافٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَضَى أَنَّ الخَرَاجَ بالضَّمَانِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ]. وَقَدْ رُوِيَ هٰذَا الحَدِيثُ مِنْ غيْرِ هذَا الوَجْهِ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ.

تخريج: [**إسناده حسن**] وأخرجه أبو داود، البيوع، باب: فيمن اشترى عبدًا فاستعمله ثم وجد به عيبًا، ح:٣٥٠٨ والنسائي:٧/ ٢٥٤، ٢٥٥، ح:٤٤٩٥ وابن ماجه، ح:٢٢٤٢ من حديث محمد بن عبدالرحمن بن أبي ذئب به وصححه ابن الجارود، ح:٦٢٧ وابن حبان، ح:١١٢٥ وغيرهما.

1286. 'Āishah narrated: "The Prophet ﷺ judged that the produce is for the responsible one." (*Ḥasan*)

[He said:] This *Ḥadīth* is [*Ḥasan*] *Ṣaḥīḥ*, *Gharib* as a *Ḥadīth* of Hishām bin 'Urwah (a narrator).

[Abū 'Eīsā said:] Muslim bin Khālid Az-Zanjī reported this *Ḥadīth* from Hishām, from 'Urwah. Jarīr reported it from Hishām as well. It is said that the narration of Jarīr has *Tadlīs* in it, that Jarīr commited the *Tadlīs*; he did not hear it from Hishām bin 'Urwah.

As for the meaning of "the produce is for the responsible one," he is the man who purchased the slave then the slave produced

١٢٨٦ - حَدَّثَنَا أَبُو سَلَمَةَ يَحْيَى بْنُ خَلَفٍ: أَخْبَرَنَا عُمَرُ بْنُ عَلِيٍّ [الْمُقَدَّمِيُّ] عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: أَنَّ النَّبِيَّ ﷺ قَضَى أَنَّ الخَرَاجَ بِالضَّمَانِ.

[قَالَ:] وهٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ، غَرِيبٌ مِنْ حَدِيثِ هِشَامِ بْنِ عُرْوَةَ.

[قَالَ أَبُو عِيسَى:] وَقَدْ رَوَى مُسْلِمُ بْنُ خَالِدٍ الزَّنْجِيُّ هَذَا الْحَدِيثَ عَنْ هِشَامِ بْنِ عُرْوَةَ. وَرَوَاهُ جَرِيرٌ عَنْ هِشَامٍ أَيْضًا. وَحَدِيثُ جَرِيرٍ يُقَالُ تَدْلِيسٌ دَلَّسَ فِيهِ جَرِيرٌ، لَمْ يَسْمَعْهُ مِنْ هِشَامِ بْنِ عُرْوَةَ.

وتَفْسِيرُ الخَرَاجِ بِالضَّمَانِ، هُوَ الرَّجُلُ

for him, and he found some defect in him so he returned him to the seller. Then the produce (of his work) is the purchaser's. In cases similar to this, the produce is for the responsible one.

[Abū 'Eīsā said:] Muḥammad bin Ismā'īl called this *Ḥadīth Gharīb*, as a narration of 'Umar bin 'Alī (one of the narrators). [I said: "Do you think that he committed *Tadlīs*?" He said: "No."]

يَشْتَرِي العَبْدَ فَيَسْتَغِلُّهُ ثُمَّ يَجِدُ بِهِ عَيْبًا فَيَرُدُّهُ عَلَى الْبَائِعِ، فالْغَلَّةُ لِلْمُشْتَرِي، لِأَنَّ العَبْدَ لَوْ هَلَكَ، هَلَكَ مِنْ مَالِ المُشْتَرِي، ونَحْوُ هذَا مِنَ المَسَائِلِ، يَكُونُ فِيهِ الخَرَاجُ بالضَّمَانِ.

[قَالَ أَبُو عِيسَى:] واسْتَغْرَبَ محَمَّدُ بْنُ إِسْمَاعِيلَ هٰذَا الحَدِيثَ، مِنْ حَدِيثِ عُمَرَ بْنِ عَلِيٍّ [قُلْتُ: تَرَاهُ تَدْلِيسًا؟ قَالَ: لَا]

تخريج: [حسن] وأخرجه أبو داود، أيضًا، ح:٣٥١٠ وابن ماجه، ح:٢٢٤٣ من حديث هشام به وصححه ابن الجارود، ح:٦٢٦ وابن حبان، ح:١١٢٦ والحاكم:٢/ ١٥ والذهبي، والحديث السابق شاهد له * حديث مسلم بن خالد الزنجي، أخرجه ابن ماجه، ح:٢٢٤٣ وأبو داود، ح:٣٥١٠.

Chapter 54. What Has Been Related About The Permission For Eating Fruit For The Passerby

(المعجم ٥٤) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي أَكْلِ الثَّمَرَةِ لِلْمَارِّ بِهَا (التحفة ٥٤)

1287. Ibn 'Umar narrated that the Prophet ﷺ said: "Whoever enters an orchard then let him eat, but not take any in his garment." **(*Ḍa'īf*)**

[He said:] There are narrations on this topic from 'Abdullāh bin 'Amr, 'Abbād bin Shuraḥbīl, Rāfi' bin 'Amr, 'Umair the freed slave of Ābi Al-Laḥm, and Abū Hurairah.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Gharīb Ḥadīth*. We do not know of it from this route except from Yaḥya bin Sulaim. Some of the people of knowledge have permitted the wayfarer to eat from the fruits, and some of them disliked it without paying.

١٢٨٧ - **حَدَّثَنَا** مُحَمَّدُ بْنُ عَبْدِ المَلِكِ بْنِ أَبِي الشَّوَارِبِ: حَدَّثَنَا يَحْيَى بْنُ سُلَيْمٍ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ دَخَلَ حَائِطًا فَلْيَأْكُلْ وَلَا يَتَّخِذْ خُبْنَةً».

[قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو وَعَبَّادِ بْنِ شُرَحْبِيلَ ورَافِعِ بْنِ عَمْرٍو وَعُمَيْرٍ مَوْلَى آبِي اللَّحْمِ وأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ غَرِيبٌ، لَا نَعْرِفُهُ مِنْ هٰذَا الوَجْهِ إِلَّا مِنْ حَدِيثِ يَحْيَى بْنِ سُلَيْمٍ. وَقَدْ رَخَّصَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ لِابْنِ السَّبِيلِ فِي أَكْلِ الثِّمَارِ، وكَرِهَهُ بَعْضُهُمْ إِلَّا بالثَّمَنِ.

تخريج: [**إسناده ضعيف**] وأخرجه ابن ماجه، التجارات، باب من مر على ماشية قوم أو حائط، هل يصيب منه؟، ح:٢٣٠١ من حديث يحيى بن سليم الطائفي به وسنده ضعيف وللحديث شواهد، وأخرج البيهقي: ٩/ ٣٥٩ بإسناد حسن عن عمر قال: "من مر منكم بحائط فليأكل في بطنه ولا يتخذ خبنةً" * وفي الباب عن عبدالله بن عمرو [يأتي:١٢٨٩] وعباد بن شرحبيل [أبو داود، ح:٢٦٢٠، ٢٦٢١ وابن ماجه، ح:٢٢٩٨] ورافع بن عمرو [يأتي:١٢٨٨] وعمير مولى أبي اللحم [أحمد:٥/ ٢٢٣] وأبي هريرة [ابن ماجه، ح:٢٣٠٣].

Comments:

It depends on the custom of the area. In some areas, the owner of a garden allows the passerby to eat the fruit of his garden that has fallen from the trees, and in case someone is hungry, he is allowed to pick from the tree and eat. In some areas it is strictly prohibited by the owners. No one can have anything from the garden. In the areas where it is prohibited, first one should seek permission, and then take some fruit to eat. If the fruit is taken and eaten without prior permission, it is necessary to pay for it. According to Imām Aḥmad if there is no fence around the garden it is permitted to take the fruit from there. (*Tuḥfat Al-Aḥwadhī* v. 2. p.261.)

1288. Rāfi' bin 'Amr said: "I was throwing stones at a date-palm belonging to some of the *Anṣār*.[1] They took me along with them to the Prophet ﷺ. He said: 'O Rāfi'! Why were you throwing stones at their date-palm?'" He said: "I said: 'Out of hunger, O Messenger of Allāh!' He said: 'Do not throw stones at them, eat what falls. May Allāh fill you and quench your thirst.'" (***Da'īf***)

This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*.

١٢٨٨ - حَدَّثَنَا أَبُو عَمَّارٍ الْحُسَيْنُ بْنُ حُرَيْثٍ الْخُزَاعِيُّ: حَدَّثَنَا الْفَضْلُ بْنُ مُوسَى عَنْ صَالِحِ بْنِ أَبِي جُبَيْرٍ، عَنْ أَبِيهِ، عَنْ رَافِعِ ابْنِ عَمْرٍو، قَالَ: كُنْتُ أَرْمِي نَخْلَ الأَنْصَارِ، فَأَخَذُونِي فَذَهَبُوا بِي إِلَى النَّبِيِّ ﷺ. فَقَالَ: «يَا رَافِعُ لِمَ تَرْمِي نَخْلَهُمْ»؟ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ! الْجُوعُ، قَالَ: «لَا تَرْمِ، وَكُلْ مَا وَقَعَ، أَشْبَعَكَ اللهُ وَأَرْوَاكَ».

هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ.

تخريج: [**إسناده ضعيف**] وأخرجه البيهقي: ١٠/ ١٢ من حديث الفضل بن موسى به * أبوجبير لم يوثقه غير الترمذي وله شاهد ضعيف عند أبي داود، ح:٢٦٢٢ وابن ماجه، ح:٢٢٩٩ وغيرهما.

Comments:

It appears from this narration that a hungry person should be allowed to eat the fallen fruit from the garden, and in case of severe hunger he should be allowed to pick from the trees as is clear from the next narration.

[1] He was throwing stones at it to get its fruits to fall so he could eat them. See *'Awn Al-Ma'būd* by Al-'Aẓīmābādī.

1289. 'Amr bin Shu'aib narrated from his father, from his grandfather, that the Prophet ﷺ was asked about hanging fruits (on the trees), so he said: "Whoever is in need and picks some of it without taking any in his garment, then there is no sin upon him." (*Hasan*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٢٨٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ عَجْلَانَ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ سُئِلَ عَنِ الثَّمَرِ الْمُعَلَّقِ، فَقَالَ: «مَنْ أَصَابَ مِنْهُ مِنْ ذِي حَاجَةٍ، غَيْرَ مُتَّخِذٍ خُبْنَةً، فَلَا شَيْءَ عَلَيْهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: [إسناده حسن] وأخرجه أبو داود، اللقطة، باب التعريف باللقطة، ح:١٧١٠ والنسائي، ح:٩٦١ عن قتيبة به وصححه ابن الجارود، ح:٨٢٧ وابن خزيمة، ح:٢٣٢٧، ٢٣٢٨.

Chapter 55. What Has Been Related About The Prohibition From Making Exceptions

(المعجم ٥٥) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ الثُّنْيَا (التحفة ٥٥)

1290. Jābir narrated: "The Messenger of Allāh ﷺ prohibited *Al-Muhaqalah*, *Al-Muzābanah*, *Al-Mukhābarah*, and making an exception (in a sale) unless it is made known." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*, *Gharīb* from this route as a narration of Yūnus bin 'Ubaid, from 'Atā', from Jābir.

١٢٩٠ - حَدَّثَنَا زِيَادُ بْنُ أَيُّوبَ الْبَغْدَادِيُّ: حَدَّثَنَا عَبَّادُ بْنُ الْعَوَّامِ [قَالَ]: أَخْبَرَنِي سُفْيَانُ ابْنُ حُسَيْنٍ عَنْ يُونُسَ بْنِ عُبَيْدٍ، عَنْ عَطَاءٍ، عَنْ جَابِرٍ: أَنَّ رَسُولَ اللهِ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ وَالْمُخَابَرَةِ وَالثُّنْيَا، إِلَّا أَنْ تُعْلَمَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، غَرِيبٌ مِنْ هٰذَا الْوَجْهِ، مِنْ حَدِيثِ يُونُسَ بْنِ عُبَيْدٍ عَنْ عَطَاءٍ، عَنْ جَابِرٍ.

تخريج: [صحيح] وأخرجه النسائي: ٧/٢٩٦، ح:٤٦٣٧ (البيوع، باب النهي عن بيع الثنيا حتى تعلم) عن زياد بن أيوب، والبخاري، ح:٢٣٨١ ومسلم، ح:١٥٣٦/ ٨١ من حديث عطاء به.

Comments:

"*Al-Muhāqalah*" is selling un-harvested grain in the field in exchange for harvested grain like wheat. "*Al-Muzābanah*" is selling an estimated amount of fresh dates on the tree for dried dates that are measured, or the same for grapes. "*Al-Mukhābarah*" is renting land in exchange for a portion of its produce. Making an exception in a sale means to make an exception for one item among those purchased, without telling the purchaser that seller did not include that item, or the like.

Chapter 56. What Has Been Related About It Being Disliked To Sell Food Until It Has Been Acquired

(المعجم ٥٦) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ بَيْعِ الطَّعَامِ حَتَّى يَسْتَوْفِيَهُ (التحفة ٥٦)

1291. Ibn 'Abbās narrated that the Prophet ﷺ said: "Whoever buys food, then he is not to sell it until he takes possession of it." Ibn 'Abbās said: "All things are considered the same (in this regard)." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Ibn 'Umar [and Abū Hurairah].

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

١٢٩١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ عَمرِو بْنِ دِينَارٍ، عَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّ النَّبِيَّ ﷺ قَالَ: «مَنِ ابْتَاعَ طَعَامًا فَلَا يَبِعْهُ حَتَّى يَسْتَوْفِيَهُ».

قَالَ ابْنُ عَبَّاسٍ: وأَحْسَبُ كُلَّ شَيْءٍ مِثْلَهُ

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَابْنِ عُمَرَ [وَأَبِي هُرَيْرَةَ].

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ، كَرِهُوا بَيْعَ الطَّعَامِ حَتَّى يَقْبِضَهُ الْمُشْتَرِي. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِيمَنِ ابْتَاعَ شَيْئًا مِمَّا لَا يُكَالُ ولَا يُوزَنُ، مِمَّا لَا يُؤْكَلُ ولَا يُشْرَبُ، أَنْ يَبِيعَهُ قَبْلَ أَنْ يَسْتَوْفِيَهُ، وإِنَّمَا التَّشْدِيدُ عِنْدَ أَهْلِ الْعِلْمِ، فِي الطَّعَامِ. وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب بطلان بيع المبيع قبل القبض، ح:١٥٢٥ عن قتيبة والبخاري، ح:٢١٣٥ من حديث عمرو بن دينار به * وفي الباب عن جابر [مسلم، ح:١٥٢٩] وابن عمر [البخاري، ح:٢١٣٦ ومسلم، ح:١٥٢٦] وأبي هريرة [مسلم، ح:١٥٢٨].

Comments:

Some *Ṣaḥīḥ* narrations also support the view of Ibn 'Abbās, that until and unless the complete possession of a thing is obtained it should not be sold. So this is a correct view that the thing should be sold only when the complete possession is obtained.

Chapter 57. What Has Been Related About The Prohibition Of Selling Over The Sale Of One's Brother

(المعجم ٥٧) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ الْبَيْعِ عَلَى بَيْعِ أَخِيهِ (التحفة ٥٧)

1292. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "None of you is to sell over the sale of others, nor to propose over the proposal of others." (***Ṣaḥīḥ***)

[He said:] There are narration on this topic from Abū Hurairah and Samurah.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

And it has been reported from the Prophet ﷺ that he said: "Do not haggle in competition with your brother's haggling." And the meaning of sale in this *Ḥadīth* of the Prophet ﷺ, according to some of the people of knowledge is to haggle.

١٢٩٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَبِيعُ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ، وَلَا يَخْطُبُ بَعْضُكُمْ عَلَى خِطْبَةِ بَعْضٍ».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَسَمُرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

و[قَدْ] رُوِيَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «لَا يَسُومُ الرَّجُلُ عَلَى سَوْمِ أَخِيهِ» ومَعْنَى الْبَيْعِ فِي هٰذَا الْحَدِيثِ عَنِ النَّبِيِّ ﷺ، عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، هُوَ السَّوْمُ.

تخريج: متفق عليه، وأخرجه مسلم، النكاح، باب تحريم الخطبة على خطبة أخيه حتى يأذن أو يترك، ح:١٤١٢ من حديث الليث بن سعد والبخاري، ح:٢١٦٥ من حديث نافع به * وفي الباب عن أبي هريرة [أحمد: ٢/ ٣١٨،٣١١] وسمرة [أحمد:٥/ ١١].

Comments:

When two parties have reached an agreement on price of a commodity, the third one should not enter the deal to offer less or more. Similarly, in the case of proposals of betrothals, it is not allowed to propose over the proposal of others. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 306-307.)

Chapter 58. What Has Been Related About The Sale Of Wine And The Prohibition Of That

(المعجم ٥٨) - بَابُ مَا جَاءَ فِي بَيْعِ الْخَمْرِ وَالنَّهْيِ عَنْ ذٰلِكَ (التحفة ٥٨)

1293. Anas narrated from Abū Ṭalḥah that he said: "O Prophet of Allāh! I had purchased some wine for the orphans under my care. He said: 'Spill out the wine, and break the jugs.'" (***Ṣaḥīḥ***)

١٢٩٣ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا الْمُعْتَمِرُ بنُ سُلَيْمَانَ قَالَ: سَمِعْتُ لَيْثًا يُحَدِّثُ عَنْ يَحْيَى بْنِ عَبَّادٍ، عَنْ أَنَسٍ، عَنْ أَبِي طَلْحَةَ، أَنَّهُ قَالَ: يَا نَبِيَّ اللهِ! إِنِّي اشْتَرَيْتُ

[He said:] There are narrations on this topic from Jābir, 'Āishah, Abū Sa'eed, Ibn Mas'ūd, Ibn 'Umar, and Anas.

[Abū 'Eīsā said:] The *Hadīth* of Abū Ṭalḥah, Ath-Thawrī reported this *Hadīth* from As-Suddī, from Yaḥya bin 'Abbād, from Anas: "That Abū Ṭalḥah was with him" and this is more correct than the narration of Al-Laith (no. 1293).

خَمْرًا لأَيْتَامٍ فِي حِجْرِي، قَالَ: «أَهْرِقِ الْخَمْرَ وَاكْسِرِ الدِّنَانَ».

[قَالَ:] وَفِي الْبَابِ عَنْ جابِرٍ وَعائِشَةَ وَأَبِي سَعِيدٍ وَابْنِ مَسْعُودٍ وابْنِ عُمَرَ وَأَنَسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي طَلْحَةَ، رَوَى الثَّوْرِيُّ هٰذَا الْحَدِيثَ عَنِ السُّدِّيِّ، عَنْ يَحْيَى بْنِ عَبَّادٍ، عَنْ أَنَسٍ أَنَّ أَبَا طَلْحَةَ كانَ عِنْدَهُ، وهٰذَا أَصَحُّ مِنْ حَدِيثِ اللَّيْثِ.

تخريج: [**صحيح**] وأخرجه مسلم، الأشربة، باب تحريم تخليل الخمر، ح:١٩٨٣ مختصرًا وأبو داود، ح:٣٦٧٥ من حديث يحيى بن عباد به * وفي الباب عن جابر [يأتي:١٢٩٧] وعائشة [البخاري، ح:٢٠٨٤ ومسلم، ح:١٥٨٠] وأبي سعيد [تقدم:١٢٦٣] وابن مسعود [الطبراني في الكبير:١٠/١١٣، ح:١٠٠٥٦] وابن عمر [أبو داود، ح:٣٦٧٤] وأنس [يأتي:١٢٩٤، ١٢٩٥].

Comments:

Manufacturing, selling and purchasing and dealing in wine in any form is unlawful. It is unanimously agreed upon. According to Imām Abū Ḥanīfah business of wine through a *Dhimmī* disbeliever is approved, but this is not the correct view. (*Al-Mughnī* v. 6. p.320)

Chapter 59. The Prohibition To Use Wine To Make Vinegar

(المعجم ٥٩) - [بَابُ النَّهْيِ أَنْ يُتَّخَذَ الْخَمْرُ خَلًّا] (التحفة ٥٩)

1294. Anas bin Mālik narrated: "I asked the Messenger of Allāh ﷺ: 'Can wine be used for vinegar?' He said: 'No.'" (***Sahih***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٢٩٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا سُفْيَانُ عَنِ السُّدِّيِّ، عَنْ يَحْيَى بْنِ عَبَّادٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ: أَيُتَّخَذُ الْخَمْرُ خَلًّا؟ قَالَ: «لَا».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الأشربة، باب تحريم تخليل الخمر، ح:١٩٨٣ من حديث سفيان الثوري به ورواه أبو داود، ح:٣٦٧٥ مطولاً.

Comments:

In view of the three *A'immah* and most of the scholars, it is not allowed to prepare vinegar from wine by some artificial methods, but if wine becomes vinegar by itself naturally it will be lawful and can be used. According to

Imām Abū Ḥanīfah and Imām Awzā'ī and Laith preparing vinegar from wine by an artificial method is approved. We have not found any *Ṣaḥīḥ* narration infavor of this view.

1295. Anas bin Mālik narrated: "The Messenger of Allāh ﷺ cursed ten involved with wine: The one who presses it, the one who has it pressed, its drinker, its carrier, and the one it is carried to, its server, its seller, the consumption of its price, the one who purchases it and the one it was purchased for." ***(Ḥasan)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* as a narration of Anas. Similar to this has been reported from Ibn 'Abbās, Ibn Mas'ūd, and Ibn 'Umar, from the Prophet ﷺ.

١٢٩٥ - حَدَّثَنَا عَبْدُ اللهِ بْنُ مُنِيرٍ قَالَ: سَمِعْتُ أَبَا عَاصِمٍ عَنْ شَبِيبِ بْنِ بِشْرٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: لَعَنَ رَسُولُ اللهِ ﷺ فِي الْخَمْرِ عَشْرَةً: عَاصِرَهَا وَمُعْتَصِرَهَا وَشَارِبَهَا وَحَامِلَهَا والمَحْمُولَةَ إِلَيْهِ وَسَاقِيَهَا وبَائِعَهَا وآكِلَ ثَمَنِها وَالْمُشْتَرِي لَهَا وَالْمُشْتَرَاةَ لَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ حَدِيثِ أَنَسٍ. وَقَدْ رُوِيَ نَحْوُ هٰذَا عَنِ ابْنِ عَبَّاس وَابْنِ مَسْعُودٍ وابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، الأشربة، باب: لعنت الخمر على عشرة أوجه، ح:٣٣٨١ من حديث أبي عاصم النبيل به وانظر تسهيل الحاجة، ح:٢٧٧٥ لحال شبيب، وللحديث شواهد كثيرة جدًا * وروى عن ابن عباس، [أحمد:١/٣١٦ وابن حبان، ح:١٣٧٤ والحاكم:٤/ ١٤٥] وابن مسعود [الطبراني في الكبير:١/١١٣، ح:١٠٠٥٦] وابن عمر [أبو داود، ح:٣٦٧٤].

Comments:

This narration proves that the wine and its related business, and any kind of involvement in this business, is strictly disapproved. Verse no. 2 of *Sūrat Al-Mā'idah* "...Do not help one another in sin and transgression." is a another proof of the disapproval and unlawfulness.

Chapter 60. What Has Been Related About Milking Livestock Without Permission Of The Owners

(المعجم ٦٠) - **بَابُ مَا جَاءَ فِي احْتِلَابِ الْمَوَاشِي بِغَيْرِ إِذْنِ الْأَرْبَابِ** (التحفة ٦٠)

1296. Samurah bin Jundab narrated that the Prophet ﷺ said: "When one of you comes upon livestock, if its owner is with it then seek his permission. If he permits him then let him milk it and drink. If there is no one with it then call out three times, if someone answers then seek his permission.

١٢٩٦ - حَدَّثَنَا أَبُو سَلَمَةَ يَحْيى بْنُ خَلَفٍ: حَدَّثَنَا عَبْدُ الأَعْلَى عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ بْنِ جُنْدَبٍ، أَنَّ النَّبِيَّ ﷺ قَالَ: «إِذَا أَتَى أَحَدُكُمْ عَلَى مَاشِيَةٍ، فَإِنْ كانَ فِيها صَاحِبُهَا فَلْيَسْتَأْذِنْهُ، فَإِنْ أَذِنَ لَهُ فَلْيَحْتَلِبْ ولْيَشْرَبْ، وَإِنْ لَمْ يَكُنْ فِيهَا

If no one answers then let him milk it and drink without carrying (any of it away)." (*Ḍa'īf*)

[He said:] There are narrations on this topic from [Ibn] 'Umar and Abū Sa'eed.

[Abū 'Eīsā said:] The *Ḥadīth* of Samurah is a *Ḥasan Gharīb Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge, and it is the view of Aḥmad and Isḥāq.

[Abū 'Eīsā said:] 'Alī bin Al-Madīnī said: "It is correct that Al-Ḥasan heared this from Samurah." Some of the people of *Ḥadīth* criticized the narrations of Al-Ḥasan from Samurah, they said that he only narrated from a writing of Samurah.

أَحَدٌ فَلْيُصَوِّتْ ثَلَاثًا، فَإِنْ أَجَابَهُ أَحَدٌ فَلْيَسْتَأْذِنْهُ، فَإِنْ لَمْ يُجِبْهُ أَحَدٌ فَلْيَحْتَلِبْ ولْيَشْرَبْ ولَا يَحْمِلْ».

[قَالَ:] وفِي الْبَابِ عَنِ [ابْنِ] عُمَرَ وأَبِي سَعِيد.

[قَالَ أَبُو عِيسَى:] حَدِيثُ سَمُرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَبِهِ يَقُولُ أَحْمَدُ وَإِسْحَاقُ.

[قَالَ أَبُو عِيسَى:] وَقَالَ عَلِيُّ بْنُ الْمَدِينِيِّ: سَمَاعُ الْحَسَنِ مِنْ سَمُرَةَ صَحِيحٌ. وَقَدْ تَكَلَّمَ بَعْضُ أَهْلِ الْحَدِيثِ فِي رِوَايَةِ الْحَسَنِ، عَنْ سَمُرَةَ، وَقَالُوا: إِنَّمَا يُحَدِّثُ عَنْ صَحِيفَةِ سَمُرَةَ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الجهاد، باب: في ابن السبيل يأكل من التمر ويشرب من اللبن، ح:٢٦١٩ من حديث عبدالأعلى بن عبدالأعلى به سعيد بن أبي عروبة وقتادة: عنعنا، ومع ذلك صححه الحافظ في الفتح:٥/٨٩، وله شاهد عند أحمد وسنده ضعيف * وفي الباب عن ابن عمر [تقدم:١٢٨٧] وأبي سعيد [ابن ماجه، ح:٢٣٠٠].

Comments:

This kind of practice depends on the customary norms of the area. If according to the practice of the area it is allowed, then one can drink the milk of the animal in the absence of the owner, but in view of most of the scholars if the practice of the area does not allow that, then one can use the milk but he will pay for it. In the view of Imām Aḥmad and Isḥāq, there is no need to pay the price if three calls have been uttered aloud. (*Tuḥfat Al-Aḥwadhī* v. 2. p.264.)

Chapter 61. What Has Been Related About Selling Skins Of Dead Animals And Idols

(المعجم ٦١) - بَابُ مَا جَاءَ فِي بَيْعِ جُلُودِ الْمَيْتَةِ وَالْأَصْنَامِ (التحفة ٦١)

1297. Jābir bin 'Abdullāh narrated that during the Year of the Conquest, while he was in Makkah, he heard the Messenger of Allāh ﷺ saying: "Indeed Allāh and His

١٢٩٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ، أَنَّهُ سَمِعَ رَسُولَ اللهِ ﷺ، عَامَ الْفَتْحِ وَهُوَ بِمَكَّةَ،

Messenger made unlawful the sale of wine, dead carcasses, the pig, and idols." They said: "O Messenger of Allāh! What about the fat of carcasses? For indeed it is used to coat the ships, skins are oiled with it, and people use it for lamps?" He said: "No. It is unlawful." Then, with that, the Messenger of Allāh ﷺ said: "May Allāh fight (curse) the Jews! Indeed Allāh made the fat unlawful for them, they melted it, sold it, and consumed its price." (*Ṣaḥīḥ*)

يَقُولُ: «إِنَّ اللهَ وَرَسُولَهُ حَرَّمَ بَيْعَ الْخَمْرِ وَالْمَيْتَةِ والخِنْزِيرِ والأَصْنَامِ» فَقِيلَ: يَا رَسُولَ اللهِ! أَرَأَيْتَ شُحُومَ الْمَيْتَةِ؟ فَإِنَّهُ يُطْلَى بِهَا السُّفُنُ وَيُدْهَنُ بِها الْجُلُودُ وَيَسْتَصْبِحُ بِهَا النَّاسُ؟ قَالَ: «لَا، هُوَ حَرَامٌ».
ثُمَّ قَالَ رَسُولُ اللهِ ﷺ عِنْدَ ذٰلِكَ: «قَاتَلَ اللهُ الْيَهُودَ، إِنَّ اللهَ حَرَّمَ عَلَيْهِمُ الشُّحُومَ فَأَجْمَلُوهُ ثُمَّ باعُوهُ فَأَكَلُوا ثَمَنَهُ».

[He said:] There are narrations on this topic from 'Umar and Ibn 'Abbās.

[قَالَ] وَفِي الْبَابِ عَنْ عُمَرَ وابْنِ عَبَّاسٍ.

[Abū 'Eīsā said:] The *Ḥadīth* of Jābir is a *Hasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هذَا عِنْدَ أَهْلِ الْعِلْمِ.

تخريج: متفق عليه، وأخرجه البخاري، البيوع، باب بيع المتية والأصنام، ح:٢٢٣٦ ومسلم، ح:١٥٨١ عن قتيبة به وفي الباب عن عمر [البخاري، ح:٢٢٢٣ ومسلم، ح:١٥٨٢] وابن عباس [أبو داود، ح:٣٤٨٨].

Comments:

Unlawfulness of the sale of dead carcasses, pigs and idols is unanimously agreed upon. According to three *A'immah* Mālik, Aḥmad, and Shāfi'ī dead carcasses and wine are unlawful due to their filthiness; therefore, the sale of anything filthy is unlawful and strictly prohibited.

Chapter 62. What Has Been Related About It Being Disliked To Take Back One's Gift

(المعجم ٦٢) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الرُّجُوعِ فِي الْهِبَةِ (التحفة ٦٢)

1298. Ibn 'Abbās, [may Allāh be pleased with them], narrated that the Messenger of Allāh ﷺ said: "Ours is not a bad example: The one who takes back his gift is like the dog who takes back his vomit." (*Ṣaḥīḥ*)

١٢٩٨ - حَدَّثَنَا أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ: حَدَّثَنَا عَبْدُ الوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا أَيُّوبُ عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ [رَضِيَ اللهُ عَنْهُمَا]، أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَيْسَ لَنَا مَثَلُ السَّوْءِ، الْعَائِدُ فِي هِبَتِهِ كالْكَلْبِ يَعُودُ فِي قَيْئِهِ».

[He said:] On this topic, there is the narration from Ibn 'Umar from

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «لَا يَحِلُّ لأَحَدٍ أَنْ يُعْطِيَ عَطِيَّةً فَيَرْجِعَ فِيهَا، إِلَّا الْوَالِدَ فِيمَا يُعْطِي وَلَدَهُ».

the Prophet ﷺ that he said: "It is not lawful for anyone that has given a gift to take it back, except for a father who gives something to his son."

تخريج: وأخرجه البخاري، الهبة وفضلها والتحريض عليها، باب: لا يحل لأحد أن يرجع في هبته وصدقته، ح:٢٦٢٢ من حديث أيوب السختياني به ورواه مسلم، ح:١٦٢٢ من حديث ابن عباس * وفي الباب عن ابن عمر [يأتي بعده:١٢٩٩].

١٢٩٩ - **حَدَّثَنَا** بِذٰلِكَ مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ حُسَيْنٍ الْمُعَلِّمِ، عَنْ عَمْرِو بْنِ شُعَيْبٍ أَنَّهُ سَمِعَ طَاوُسًا يُحَدِّثُ عَنِ ابْنِ عُمَرَ وابْنِ عَبَّاسٍ، يَرْفَعَانِ الْحَدِيثَ إِلَى النَّبِيِّ ﷺ، بِهٰذَا الْحَدِيثِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ [رَضِيَ اللهُ عَنْهُمَا] حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. قَالُوا: مَنْ وَهَبَ هِبَةً لِذِي رَحِمٍ مَحْرَمٍ فَلَيْسَ لَهُ أَنْ يَرْجِعَ فِي هِبَتِهِ، ومَنْ وَهَبَ هِبَةً لِغَيْرِ ذِي رَحِمٍ مَحْرَمٍ فَلَهُ أَنْ يَرْجِعَ فِيها، مَا لَمْ يُثَبْ مِنْهَا، وهُوَ قَوْلُ الثَّوْرِيِّ. وقَالَ الشَّافِعِيُّ: لَا يَحِلُّ لأَحَدٍ أَنْ يُعْطِيَ عَطِيَّةً فَيَرْجِعَ فِيهَا إِلَّا الْوَالِدَ فِيما يُعْطِي وَلَدَهُ. وَاحْتَجَّ الشَّافِعِيُّ بِحَدِيثِ عَبْدِ اللهِ بْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا يَحِلُّ لِأَحَدٍ أَنْ يُعْطِيَ عَطِيَّةً فَيَرْجِعَ فِيهَا، إِلَّا الْوَالِدَ فِيما يُعْطِي وَلَدَهُ».

1299. 'Amr bin Shu'aib narrated that he heard Ṭāwus narrating from Ibn 'Umar and Ibn 'Abbās, and they both narrated this *Ḥadīth* from the Prophet ﷺ. (a *Ḥadīth* similar to no. 1298) (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Abbās, [may Allāh be pleased with them], is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This *Ḥadīth* is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ. They said whoever gives a gift to a closely related relative, then he is not to take back his gift. And whoever gives a gift to someone other than a close relative, then he may take it back as long as it has not been reciprocated. This is the view of Ath-Thawrī. Ash-Shāfi'ī said: "It is not lawful for any that has given a gift to take it back except for what the father gave to his son." Ash-Shāfi'ī argued with the *Ḥadīth* of 'Abdullāh bin 'Umar from the Prophet ﷺ: "It is not lawful for anyone that has given a gift to take it back, except for a father who gives something to his son."

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الهبات، باب من أعطى ولده ثم رجع فيه، ح:٢٣٧٧ عن محمد بن بشار به وصححه ابن حبان، ح:١١٤٨ وابن الجارود، ح:٩٩٤ والحاكم:٢/٤٦ ووافقه الذهبي وسيأتي مطولاً: ٢١٣١.

Chapter 63. What Has Been Related About *Al-'Arāyā* And the Permission For That

(المعجم ٦٣) - بَابُ مَا جَاءَ فِي الْعَرَايَا وَالرُّخْصَةِ فِي ذَلِكَ (التحفة ٦٣)

1300. Ibn 'Umar narrated from Zaid bin Thābit that the Prophet ﷺ prohibited *Al-Muḥāqalah* and *Al-Muzābanah*, except that he permitted those who practice *Al-'Arāyā* to sell it for a like estimation. (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Hurairah and Jābir.

[Abū 'Eīsā said:] The *Ḥadīth* of Zaid bin Thābit: This is how Muḥammad bin Isḥāq reported this *Ḥadīth*. Ayyūb, 'Ubaidullāh bin 'Umar, and Mālik bin Anas reported it [from Nāfi'], from Ibn 'Umar: "The Prophet ﷺ prohibited *Al-Muḥāqalah* and *Al-Muzābanah*." With this chain of narration, it has been reported from Ibn 'Umar, from Zaid bin Thābit, from the Prophet ﷺ that he permitted *Al-'Arāyā* in cases less than five *Wasq*. This is more correct than the narration of Muḥammad bin Isḥāq.

١٣٠٠ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدَةُ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ: عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ، إِلَّا أَنَّهُ قَدْ أَذِنَ لِأَهْلِ الْعَرَايَا أَنْ يَبِيعُوهَا بِمِثْلِ خَرْصِهَا.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَجَابِرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ زَيْدِ بْنِ ثَابِتٍ هٰكَذَا. رَوَى مُحَمَّدُ بْنُ إِسْحَاقَ هٰذَا الْحَدِيثَ، وَرَوَى أَيُّوبُ وَعُبَيْدُ اللهِ بْنُ عُمَرَ وَمَالِكُ بْنُ أَنَسٍ [عَنْ نَافِعٍ]، عَنِ ابْنِ عُمَرَ أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ وَالْمُزَابَنَةِ وَبِهٰذَا الْإِسْنَادِ، عَنِ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ رَخَّصَ فِي الْعَرَايَا فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ، وَهٰذَا أَصَحُّ مِنْ حَدِيثِ مُحَمَّدِ ابْنِ إِسْحَاقَ.

تخريج: [صحيح] وأخرجه أحمد:٥/ ١٨٥، ١٩٠ من حديث ابن إسحاق به وصرح بالسماع فالسند حسن وله طرق عند البخاري، ح:٢١٧٢، ٢١٧٣ ومسلم، ح:١٥٣٩ عن نافع به * وفي الباب عن أبي هريرة [يأتي:١٣٠١] وجابر [مسلم، ح:١٥٣٦/ ٩٧ وأبو داود، ح:١٦٦٢ وغيرهما].

1301. Abū Hurairah narrated that the Messenger of Allāh ﷺ permitted *Al-'Arāyā* in cases less than five *Wasq*. Or similar. (***Ṣaḥīḥ***)

Similar was narrated to us by (another chain). This *Ḥadīth* has been related from Mālik: "The Prophet ﷺ permitted *Al-'Arāyā* in cases of five *Wasq*, or for what was less than five *Wasq*."

١٣٠١ - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا زَيْدُ بْنُ حُبَابٍ عَنْ مَالِكٍ [ابْنِ أَنَسٍ]، عَنْ دَاوُدَ بْنِ الْحُصَيْنِ، عَنْ أَبِي سُفْيَانَ مَوْلَى ابْنِ أَبِي أَحْمَدَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللهِ ﷺ أَرْخَصَ فِي بَيْعِ الْعَرَايَا فِيما دُونَ خَمْسَةِ أَوْسُقٍ، أَوْ كَذَا. حَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكٍ، عَنْ دَاوُدَ بْنِ حُصَيْنٍ، نَحْوَهُ. وَرُوِيَ هٰذَا الْحَدِيثُ عَنْ مَالِكٍ، أَنَّ النَّبِيَّ ﷺ أَرْخَصَ فِي بَيْعِ الْعَرَايَا في خَمْسَةِ أَوْسُقٍ، أَوْ فِيمَا دُونَ خَمْسَةِ أَوْسُقٍ.

تخريج: متفق عليه، وأخرجه البخاري، البيوع، باب بيع الثمر على رؤوس النخل بالذهب أو الفضة، ح: ٢١٩٠ ومسلم، ح: ١٥٤١ من حديث مالك به وهو في الموطأ: ٢/ ٦٢٠.

1302. Ibn 'Umar narrated from Zaid bin Thābit that the Messenger of Allāh ﷺ permitted selling in *Al-'Arāyā* by estimating it. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] this *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. The *Ḥadīth* of Abū Hurairah is *Ḥasan Ṣaḥīḥ*. And this is acted upon according to some of the people of knowledge. Among them Ash-Shāfi'ī, Aḥmad and Isḥāq. They said *Al-'Arāyā* is an exception from the general scope of the prohibition of the Prophet ﷺ when he prohibited *Al-Muḥāqalah* and *Al-Muzābanah*. They argued using the *Ḥadīth* of Zaid bin Thābit and the *Ḥadīth* of Abū Hurairah. They said that he may buy what is less than five *Wasq*.

According to some of the people of knowledge, this means that the Prophet ﷺ wanted to make less restriction for them on this matter

١٣٠٢ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ ثَابِتٍ أَنَّ رَسُولَ اللهِ ﷺ أَرْخَصَ فِي بَيْعِ الْعَرَايَا بِخَرْصِهَا.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وحَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَيْهِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. مِنْهُمُ الشَّافِعِيُّ وَأَحْمَدُ وإِسْحَاقُ. وقَالُوا: إِنَّ الْعَرَايَا مُسْتَثْنَاةٌ مِنْ جُمْلَةِ نَهْيِ النَّبِيِّ ﷺ. إِذْ نَهَى عَنِ الْمُحَاقَلَةِ والْمُزَابَنَةِ، واحْتَجُّوا بِحَدِيثِ زَيْدِ بْنِ ثَابِتٍ وحَدِيثِ أَبِي هُرَيْرَةَ، وقَالُوا: لَهُ أَنْ يَشْتَرِيَ مَا دُونَ خَمْسَةِ أَوْسُقٍ. ومَعْنَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ: أَنَّ النَّبِيَّ ﷺ أَرَادَ التَّوْسِعَةَ عَلَيْهِمْ فِي هٰذَا، لأَنَّهُمْ شَكَوْا إِلَيْهِ وَقَالوا: لَا نَجِدُ مَا نَشْتَرِي مِنَ الثَّمَرِ [إِ]لَّا بِالتَّمْرِ، فَرَخَّصَ لَهُمْ فِيما دُونَ

خَمْسَةِ أَوْسُقٍ أَنْ يَشْتَرُوهَا، فَيَأْكُلُوهَا رُطَبًا.

because they complained to him saying: "We don't buy anything with dried dates except fruit." So he permitted them to buy less than five *Wasq* worth so they could eat fresh dates.

تخريج: متفق عليه، وأخرجه البخاري، البيوع، باب بيع الزبيب والطعام بالطعام، ح: ٢١٧٢، ٢١٧٣ من حديث حماد بن زيد ومسلم، ح: ١٥٣٩ من حديث نافع به.

Comments:

Different *A'immah* have different points of view regarding the explanation of *Al-Arāyā* — to sell something with estimation. 1) In view of Imām Mālik if the owner of the garden makes a gift of the fruit of one or more trees to some — one, and later on finds that his presence or his visits to the garden hinders the privacy of his family, in this situation he can barter fresh fruit with dried dates. 2) In the view of Imām Ash-Shāfi'ī, *Al-Arāyā* is to buy the fresh dates still on the tree from the owner of the garden by estimation in exchange of dried dates. 3) According to Imām Aḥmad, *Al-Arāyā* means if someone gets less than five *Wasq* of fresh dates which are still on the trees he is allowed to barter these fresh dates with someone in exchange of dried dates.

Chapter 64. Something Else About That

(المعجم ٦٤) - **[باب منه]** (التحفة ٦٤)

1303. Bushair bin Yasār the freed slave of Banū Ḥārithah narrated that Rāfi' bin Khadīj and Sahl bin Abī Hathmah narrated to him that the Messenger of Allāh ﷺ prohibited *Al-Muzābanah* sales, (buying) fruits with dried dates, except for those who practice *Al-'Arāyā* – for he permitted it for them – and from buying grapes with raisins, and from every fruit by its estimation. (*Saḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route.

١٣٠٣ - **حَدَّثَنَا** الْحَسَنُ بْنُ عَلِيٍّ [الْحُلْوَانِيُّ] الْخَلَّالُ: حَدَّثَنَا أَبُو أُسَامَةَ عَنِ الْوَلِيدِ بْنِ كَثِيرٍ: حَدَّثَنَا بُشَيْرُ بْنُ يَسَارٍ مَوْلَى بَنِي حَارِثَةَ أَنَّ رَافِعَ بْنَ خَدِيجٍ وَسَهْلَ بْنَ أَبِي حَثْمَةَ حَدَّثَاهُ أَنَّ رَسُولَ اللهِ ﷺ نَهَى عَنْ بَيْعِ الْمُزَابَنَةِ، الثَّمَرِ بِالتَّمْرِ، إِلَّا لِأَصْحَابِ الْعَرَايَا، فَإِنَّهُ قَدْ أَذِنَ لَهُمْ، وعَنْ بَيْعِ الْعِنَبِ بِالزَّبِيبِ وعَنْ كُلِّ ثَمَرٍ بِخَرْصِهَا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب تحريم بيع الرطب بالتمر إلا في العرايا، ح: ١٥٤٠ عن الحسن بن علي والبخاري، ح: ٢٣٨٣، ٢٣٨٤ من حديث أبي أسامة به.

Chapter 65. What Has Been Related About *An-Najsh* Being Disliked (In Sales)

(المعجم ٦٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ النَّجْشِ [فِي الْبُيُوعِ] (التحفة ٦٥)

1304. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Do not practice *An-Najsh*." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Umar and Anas.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge, they disliked *An-Najsh*.

[Abū 'Eīsā said:] *An-Najsh* is when a man who knows about the goods comes to the owner of the goods to offer him more than what it is worth, doing so in the presence of a buyer. He intends to seduce the buyer while he himself does not want to buy it, rather he only wants to deceive the buyer with his offer. And this is a type of deceit.

Ash-Shāfi'ī said: "If a man commits *An-Najsh* then he has sinned due to what he has done, but the sale is permissible, because the buyer did not commit *An-Najsh*."

١٣٠٤ - حَدَّثَنَا قُتَيْبَةُ وَأَحْمَدُ بْنُ مَنِيعٍ قَالَا: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ ابْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: وَقَالَ قُتَيْبَةُ يَبْلُغُ بِهِ النَّبِيَّ ﷺ قَالَ: «لَا تَنَاجَشُوا».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وأَنَسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، كَرِهُوا النَّجْشَ.

[قَالَ أَبُو عِيسَى:] والنَّجْشُ أَنْ يَأْتِيَ الرَّجُلُ الَّذِي يُبْصِرُ السِّلْعَةَ إِلَى صَاحِبِ السِّلْعَةِ فَيسْتَامُ بِأَكْثَرَ مِمَّا تَسْوَى، وَذٰلِكَ عِنْدَمَا يَحْضُرُهُ الْمُشْتَرِي، يُرِيدُ أَنْ يَغْتَرَّ الْمُشْتَرِي بِهِ، وَلَيْسَ مِنْ رَأْيِهِ الشِّرَى. إِنَّمَا يُرِيدُ أَنْ يَنْخَدِعَ الْمُشْتَرِي بِمَا يَسْتَامُ، وَهٰذَا ضَرْبٌ مِنَ الْخَدِيعَةِ.

قَالَ الشَّافِعِيُّ: وَإِنْ نَجَشَ رَجُلٌ، فَالنَّاجِشُ آثِمٌ فِيمَا يَصْنَعُ، وَالبَيْعُ جَائِزٌ، لِأَنَّ الْبَائِعَ غَيْرُ النَّاجِشِ.

تخريج: وأخرجه البخاري، البيوع، باب: لا يبيع على بيع أخيه، ولا يسوم على سوم أخيه حتى يأذن له أو يترك، ح:٢١٤٠ من حديث سفيان بن عيينة به ورواه مسلم، ح:١٥١٥ من حديث أبي هريرة * وفي الباب عن ابن عمر [البخاري، ح:٢١٦٢ ومسلم، ح:١٥١٦] وأنس [البيهقي: ٥/ ٣١٩ وأبو يعلى: ٥/ ١٥٥، ح:٢٧٦٧].

Comments:

The literal meaning of *'An-Najsh'* is to drive away the wild animals, but in the *Sharī'ah* it means to seduce the buyer by offering higher price of the thing, and posing as he is also a buyer, but actually he does not want to buy the thing. So the offer of the higher price is just to seduce the buyer.

Chapter 66. What Has Been Related About Giving More In Weights

(المعجم ٦٦) - بَابُ مَا جَاءَ فِي الرُّجْحَانِ فِي الْوَزْنِ (التحفة ٦٦)

1305. Suwaid bin Qais narrated: "Makhrafah Al-'Abdī and I brought linens from Hajar.[1] The Prophet ﷺ came to us to bargain with us with some pants. There was someone with me who weighed (the goods) to determine the value. So the Prophet ﷺ said to the one weighing: 'Weigh and add more.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir and Abū Hurairah.

[Abū 'Eīsā said:] The *Ḥadīth* of Suwaid is a *Ḥasan Ṣaḥīḥ Ḥadīth*. The people of knowledge consider it recommended to add more when weighing.

Shu'bah reported this *Ḥadīth* from Simāk, so he said: "From Abū Ṣafwān" and he mentioned the narration.

١٣٠٥ - حَدَّثَنَا هَنَّادٌ وَمَحْمُودُ بْنُ غَيْلَانَ قَالَا: حَدَّثَنَا وَكِيعٌ عَنْ سُفْيَانَ، عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ سُوَيْدِ بْنِ قَيْسٍ قَالَ: جَلَبْتُ أَنَا وَمَخْرَفَةُ الْعَبْدِيُّ بَزًّا مِنْ هَجَرٍ، فَجَاءَنَا النَّبِيُّ ﷺ فَسَاوَمَنَا بِسَرَاوِيلَ. وَعِنْدِي وَزَّانٌ يَزِنُ بِالأَجْرِ. فَقَالَ النَّبِيُّ ﷺ لِلْوَزَّانِ: «زِنْ وَأَرْجِحْ».

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ سُوَيْدٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَأَهْلُ الْعِلْمِ يَسْتَحِبُّونَ الرُّجْحَانَ فِي الْوَزْنِ.

وَرَوَى شُعْبَةُ هٰذَا الْحَدِيثَ، عَنْ سِمَاكٍ، فَقَالَ: عَنْ أَبِي صَفْوَانَ. وَذَكَرَ الْحَدِيثَ.

تخريج: [صحيح] وأخرجه ابن ماجه، التجارات، باب الرجحان في الوزن، ح:٢٢٢٠ من حديث وكيع، وأبو داود، ح:٣٣٣٦ وغيره من حديث سفيان الثوري به وتابعه قيس بن الربيع وله شاهد عند أبي داود، ح:٣٣٣٧ وغيره، والحديث صححه ابن حبان، ح:١٤٤٤ وابن الجارود، ح:٥٥٩ * وفي الباب عن جابر بن سمرة [ابن ماجه، ح:٢٢٢٢] وأبي هريرة [أبو يعلى:١١/ ٢٤، ح:٦١٦٢].

Comments:

This narration proves that measure and weight should always be a little extra in favor of the buyer. A person who works as a professional for measuring and weighing can fix his wages for his work.

[1] There are many places with this name, one of which is a village close to Al-Madīnah.

Chapter 67. What Has Been Related About Giving Respite To The Indigent And Being Kind To Him

(المعجم ٦٧) - بَابُ مَا جَاءَ فِي إِنْظَارِ الْمُعْسِرِ وَالرِّفْقِ بِهِ (التحفة ٦٧)

1306. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever grants respite to an indigent or alleviates it for him, Allāh will shade him on the Day of Judgement under the shade of His Throne, a Day in which there is no shade except His shade." (***Sahīh***)

[He said:] There are narrations on this topic from Abū Al-Yasar, Abū Qatādah, Hudhaifah, [Abū] Mas'ūd, 'Ubādah, and Jābir.

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Gharīb Hadīth* from this route.

١٣٠٦ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا إِسْحَاقُ ابْنُ سُلَيْمَانَ الرَّازِيُّ عَنْ دَاوُدَ بْنِ قَيْسٍ، عَنْ زَيْدِ ابْنِ أَسْلَمَ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ أَنْظَرَ مُعْسِرًا أَوْ وَضَعَ لَهُ، أَظَلَّهُ اللهُ يَوْمَ الْقِيَامَةِ تَحْتَ ظِلِّ عَرْشِهِ، يَوْمَ لَا ظِلَّ إِلَّا ظِلُّهُ».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي الْيَسَرِ وَأَبِي قَتَادَةَ وَحُذَيْفَةَ [وَأَبِي] مَسْعُودٍ وَعُبَادَةَ [وَجَابِرٍ].

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: [إسناده صحيح] وأخرجه أحمد: ٢/ ٣٥٩ عن إسحاق بن سليمان به وللحديث شواهد كثيرة جدًا * وفي الباب عن أبي اليسر [مسلم، ح: ٣٠٠٦ ضمن حديث طويل] وأبي قتادة [مسلم، ح: ١٥٦٣] وحذيفة [البخاري، ح: ٢٣٩١ ومسلم، ح: ١٥٦٠] وأبي مسعود [يأتي: ١٣٠٧] وعبادة [لم أجده] وجابر [لعله يشير إلى حديث مسلم، ح: ٣٠٠٦].

Comments:

In the Qur'ān it has been commanded to Muslims to be gentle and kind with a debtor who is in difficulty. It is better to forgive his debt. *Sūrat Al-Baqarah* Verse no. 280 says "If the debtor is in a difficulty grant him time till it is easy for him to repay, but if you remit by way of charity that is the best for you, if you know." In this narration the reward of a virtuous deed has been mentioned. On the Day of Judgement, which will be a very hard day, and when there will be no shade at all except the Shade of Allāh, doers of virtuous deeds will get a place under this Shade.

1307. Abū Mas'ūd narrated that the Messenger of Allāh ﷺ said: "A man among those before you was called to reckon and nothing of good was found with him. Except that he was a wealthy man so he used to mix with the people and he would tell his servants to be lenient

١٣٠٧ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ شَقِيقٍ، عَنْ أَبِي مَسْعُودٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «حُوسِبَ رَجُلٌ مِمَّنْ كَانَ قَبْلَكُمْ، فَلَمْ يُوجَدْ لَهُ مِنَ الْخَيْرِ شَيْءٌ، إِلَّا أَنَّهُ كَانَ رَجُلًا مُوسِرًا، فَكَانَ يُخَالِطُ النَّاسَ، فَكَانَ يَأْمُرُ غِلْمَانَهُ أَنْ

with the insolvent. So Allāh, Mighty and Sublime is He, said: 'We are more worthy of that than him, so be lenient with him.''' (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [Abū Al-Yasar is Ka'b bin 'Amr.]

يَتَجَاوَزُوا عَنِ الْمُعْسِرِ، فَقَالَ اللهُ عَزَّ وَجَلَّ: نَحْنُ أَحَقُّ بِذَلِكَ مِنْهُ تَجَاوَزُوا عَنْهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. [وأَبُو الْيَسَرِ كَعْبُ بْنُ عَمْرٍو].

تخريج: وأخرجه مسلم، المساقاة، باب فضل إنظار المعسر والتجاوز في الاقتضاء من الموسر والمعسر، ح:١٥٦١ من حديث أبي معاوية الضرير به.

Comments:

In the light of this narration it is suggested to the well-off persons of the society and the business community to deal with kindness with poor debtors, and to give them time to repay their debts, and if possible, they should remit their debits. Allāh will give them good reward in the Hereafter.

Chapter 68. What Has Been Related About The Rich Person's Procrastination (Paying Debt) Is Oppression

(المعجم ٦٨) - بَابُ مَا جَاءَ فِي مَطْلِ الْغَنِيِّ [أَنَّهُ] ظُلْمٌ (التحفة ٦٨)

1308. Abū Hurairah narrated that the Prophet ﷺ said: "Procrastination (in paying a debt) by a rich person is oppression. So if your debt is transferred from your debtor to a rich debtor, you should agree." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Umar, and Ash-Sharīd [bin Suwaid Ath-Thaqafī].

١٣٠٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَطْلُ الْغَنِيِّ ظُلْمٌ، وَإِذَا أُتْبِعَ أَحَدُكُمْ عَلَى مَلِيٍّ فَلْيَتْبَعْ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَالشَّرِيدِ [ابْنِ سُوَيْدٍ الثَّقَفِيِّ].

تخريج: [صحيح] وأخرجه ابن ماجه، الصدقات، باب الحوالة، ح:٢٤٠٣ وغيره من حديث سفيان الثوري، والبخاري، ح:٢٢٨٧ ومسلم، ح:١٥٦٤ من حديث أبي الزناد به * وفي الباب عن ابن عمر [يأتي:١٣٠٩] والشريد بن سويد الثقفي [أبو داود، ح:٣٦٢٨].

1309. [Ibn 'Umar narrated that the Prophet ﷺ said: "Procrastination (in paying a debt) by a rich person is oppression. So if your debt is transferred from your debtor you

١٣٠٩ - [حَدَّثَنَا إِبْرَاهِيمُ بْنُ عَبْدِاللهِ الْهَرَوِيُّ قَالَ: حَدَّثَنَا هُشَيْمٌ قَالَ: حَدَّثَنَا يُونُسُ بْنُ عُبَيْدٍ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ

should agree, and do not make two sales in one sale." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah (no. 1308) is a *Ḥasan Ṣaḥīḥ Ḥadīth*. And its meaning is that when the debt of one of you is transferred then agree. Some of the people of knowledge said when a man is offered to transfer his debt to a rich man and he does so, then the transferor is free of it, he is not to seek its return from the transferor. This is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq. Some of the people of knowledge said: "When this wealth could not be collected due to bankruptcy of the one it was transferred to, then he may seek its return to the first one." They argue for this view with the saying of 'Uthmān and others, when they said: "There is nothing due on a Muslim's wealth that is lost." Isḥāq said: "The meaning of this *Ḥadīth*: 'There is nothing due on a Muslim's wealth that is lost' this is when a man transfers it to another whom he thinks is wealthy, then he becomes bankrupt, so there is nothing due on the Muslim's wealth that is lost."

النَّبِيِّ ﷺ قَالَ: «مَطْلُ الْغَنِيِّ ظُلْمٌ وَإِذَا أُحِلْتَ عَلَى مَلِيءٍ فَاتْبَعْهُ وَلَا تَبِعْ بَيْعَتَيْنِ فِي بَيْعَةٍ».]

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَمَعْنَاهُ: أَنَّهُ إِذَا أُحِيلَ أَحَدُكُمْ عَلَى مَلِيٍّ فَلْيَتْبَعْ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: إِذَا أُحِيلَ الرَّجُلُ عَلَى مَلِيٍّ فَاحْتَالَهُ فَقَدْ بَرِىءَ الْمُحِيلُ وَلَيْسَ لَهُ أَنْ يَرْجِعَ عَلَى الْمُحِيلِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وَإِسْحَاقَ. وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: إِذَا تَوَى مَالُ هذَا بِإِفْلَاسِ الْمُحَالِ عَلَيْهِ، فَلَهُ أَنْ يَرْجِعَ عَلَى الأَوَّلِ. وَاحتَجُّوا بِقَوْلِ عُثْمَانَ وَغَيْرِهِ حِينَ قَالُوا: لَيْسَ عَلَى مَالِ مُسْلِمٍ تَوًى. وقَالَ إِسْحَاقُ: مَعْنَى هٰذَا الحَدِيثِ: «لَيْسَ عَلَى مَالِ مُسْلِمٍ توى». هٰذَا إِذَا أُحِيلَ الرَّجُلُ عَلَى آخَرَ، وَهُوَ يَرَى أَنَّهُ مَلِيٌّ، فَإِذا هُوَ مُعْدِمٌ، فَلَيْسَ عَلَى مَالِ مُسْلِمٍ تَوًى.

تخريج: **[صحيح]** وأخرجه ابن ماجه، الصدقات، باب الحوالة، ح:٢٤٠٤ من حديث هشيم به ويونس لم يسمع من نافع وللحديث شواهد صحيحة.

Comments:

In this narration, 'rich person' means a person who has the ability to repay the debt. If the rich person procrastinates in the repayment of the debt, it is oppression. If the debtor refers the lender to another rich person who has the ability to pay the amount, he should accept this reference. He should demand his amount from him, and if he refuses to pay he can demand his amount from the debtor.

Chapter 69. What Has Been Related About *Al-Munābadhah* And *Al-Mulāmasah*

(المعجم ٦٩) - بَابُ مَا جَاءَ فِي الْمُنَابَذَةِ وَالْمُلَامَسَةِ (التحفة ٦٩)

1310. Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited sales of *Al-Munābadhah* and *Al-Mulāmasah*." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Sa'eed and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. And the meaning of (*Munābadhah* in) this *Ḥadīth* is when it is said: "When I throw something to you then the sale between you and I is concluded." And *Al-Mulāmasah* is that he says: "When you touch something then the sale is concluded." Even if he did not see it at all, like if it was inside of a bag or something else. These are merely sales practices of the people of *Jāhiliyyah* so they were prohibited.

١٣١٠ - حَدَّثَنَا أَبُو كُرَيْبٍ وَمَحْمُودُ بْنُ غَيْلَانَ قَالَا: حَدَّثَنَا وَكِيعٌ عَنْ سُفْيَانَ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ بَيْعِ الْمُنَابَذَةِ وَالْمُلَامَسَةِ.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي سَعِيدٍ وَابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ وَمَعْنَى هٰذَا الحَدِيثِ أَنْ يَقُولَ: إِذَا نَبَذْتُ إِلَيْكَ بِالشَّيْءِ فَقَدْ وَجَبَ البَيْعُ بَيْنِي وَبَيْنَكَ. والمُلامَسَةُ أَنْ يَقُولَ: إِذَا لَمَسْتَ الشَّيْءَ فَقَدْ وَجَبَ البَيْعُ، وإِنْ كانَ لَا يَرَى مِنْهُ شَيْئًا، مِثْلَ مَا يَكُونُ فِي الجِرابِ أَوْ غَيْرِ ذَلِكَ، وإِنَّمَا كانَ هذا مِنْ بُيُوعِ أَهْلِ الجَاهِلِيَّةِ. فَنَهَى عَنْ ذَلِكَ.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب إبطال بيع الملامسة والمنابذة، ح:١٥١١ عن أبي كريب والبخاري، ح:٢١٤٦ من حديث أبي الزناد به * وفي الباب عن أبي سعيد [البخاري، ح:٥٨٢٠ ومسلم، ح:١٥١٢] وابن عمر [النسائي، ح:٤٥٢٠].

Comments:

According to the Islamic *Sharī'ah*, all kinds of transactions and commercial deals which are fraudulent, dishonest and treacherous are prohibited. *Al-Munābadhah* and *Al-Mulāmasah* are also of the same category, since the buyer has no choice to examine the commodity.

Chapter 70. What Has Been Related About Payment In Advance For Food And Fruits

(المعجم ٧٠) - بَابُ مَا جَاءَ فِي السَّلَفِ فِي الطَّعَامِ وَالثَّمَرِ (التحفة ٧٠)

1311. Ibn 'Abbās narrated: "When the Prophet ﷺ arrived in Al-

١٣١١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ عَبْدِ اللهِ بْنِ

كَثِيرٍ، عَنْ أَبِي الْمِنْهَالِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَدِمَ رَسُولُ اللهِ ﷺ الْمَدِينَةَ وَهُمْ يُسْلِفُونَ فِي الثَّمَرِ فَقَالَ: «مَنْ أَسْلَفَ فَلْيُسْلِفْ فِي كَيْلٍ مَعْلُومٍ، وَوَزْنٍ مَعْلُومٍ إِلَى أَجَلٍ مَعْلُومٍ».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ أَبِي أَوْفَى وَعَبْدِ الرَّحْمٰنِ بْنِ أَبْزَى.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. أَجَازُوا السَّلَفَ فِي الطَّعَامِ والثِّيَابِ وَغَيْرِ ذَلِكَ، مِمَّا يُعْرَفُ حَدُّهُ وَصِفَتُهُ، وَاخْتَلَفُوا فِي السَّلَمِ فِي الْحَيَوانِ. فَرَأَى بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمُ السَّلَمَ فِي الْحَيَوانِ جَائِزًا، وهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ. وَكَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ - السَّلَمَ فِي الْحَيَوانِ. وَهُوَ قَوْلُ سُفْيانَ وأَهْلِ الْكُوفَةِ [أَبُو المِنْهالِ اسْمُهُ عَبْدُالرَّحْمٰنِ بْنُ مُطْعِمٍ].

Madīnah, they were paying in advance for fruits. So he said: 'Whoever pays in advance, then let him pay in advance for known measurements (of dates), and known weights for a specified period of time.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn Abī Awfā and 'Abdur-Raḥmān bin Abzā.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. They allow for advanced payments on food, garments and other things in which the limits and description are known. They differed over delay in delivery of animals. Some of the people of knowledge among the Companions of the Prophet ﷺ and others thought that delay in delivery of animals is allowed. This is the view of Ash-Shāfi'ī, Aḥmad and Isḥāq. Some of the people of knowledge among the Companions of the Prophet ﷺ and others, disliked delay in delivery of animals. This is the saying of Sufyān and the people of Al-Kūfah. [And Abū Al-Minhāl's (a narrator) name is 'Abdur-Raḥmān bin Muṭ'im].

تخريج: متفق عليه، وأخرجه البخاري، السلم، باب السلم في وزن معلوم، ح:٢٢٤٠ ومسلم، ح:١٦٠٤ من حديث سفيان بن عيينة به * وفي الباب عن ابن أبي أوفى [البخاري، ح:٢٢٤٢، ٢٢٤٣] وعبدالرحمن بن أبزى [البخاري، ح:٢٢٤٢، ٢٢٤٣].

Comments:

"Salam" or *"Salaf"* sale is to make the payment of fruits or edibles in advance. The people of Ḥijāz called it *Salam* sale and the people of 'Irāq

named it *Salaf* sale. In this sale the price of the thing purchased is paid in advance according to its measurement or weight, as required, and the date and period of delivery is also fixed. All terms and conditions of the deal are clear beforehand to avoid the dispute that can arise later on. It is assured that nothing remains ambiguous. If the deal is about an animal, its gender, age and all related things are made clear.

Chapter 71. What Has Been Related About The Land That Is Owned By Partners When One Of Them Wants To Sell His Share

1312. Jābir bin 'Abdullāh narrated that Allāh's Prophet ﷺ said: "Whoever has a partner in an orchard, then he is not to sell his share of that until he proposes that to his partner." (***Sahīh***)

[Abū 'Eīsā said:] The chain of this *Hadīth* is not connected. I heard Muhammad bin Ismā'īl saying: It is said that "Sulaimān Al-Yashkurī: died during the lifetime of Jābir bin 'Abdullāh." He said: "And Qatādah did not hear from him, nor did Abū Bishr." Muhammad said: "We do not know of any of them hearing from Sulaimān Al-Yashkurī, except that 'Amr bin Dīnār possibly heard from him during the lifetime of Jābir bin 'Abdullāh." He said: "Qatādah only narrated from a writing of Sulaimān Al-Yashkurī, and he had a book from Jābir bin 'Abdullāh."

Abū Bakr Al-'Attār 'Abdul-Quddūs narrated to us, he said: " 'Alī bin Al-Madīnī said: 'Yahya bin Sa'eed said: "Sulaimān At-Taymī said: 'They went with the book of Jābir bin 'Abdullāh to Al-Hasan Al-Basrī and he took it' – or

(المعجم ٧١) - بَابُ مَا جَاءَ فِي أَرْضِ الْمُشْتَرَكِ يُرِيدُ بَعْضُهُمْ بَيْعَ نَصِيبِهِ (التحفة ٧١)

١٣١٢ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ سُلَيْمَانَ الْيَشْكُرِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ أَنَّ نَبِيَّ اللهِ ﷺ قَالَ: «مَنْ كَانَ لَهُ شَرِيكٌ فِي حَائِطٍ، فَلَا يَبِيعُ نَصِيبَهُ مِنْ ذٰلِكَ حَتَّى يَعْرِضَهُ عَلَى شَرِيكِهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ إِسْنَادُهُ لَيْسَ بِمُتَّصِلٍ سَمِعْتُ مُحَمَّدًا يَقُولُ: سُلَيْمَانُ الْيَشْكُرِيُّ، يُقَالُ: إِنَّهُ مَاتَ فِي حَيَاةِ جَابِرِ بْنِ عَبْدِ اللهِ. قَالَ: وَلَمْ يَسْمَعْ مِنْهُ قَتَادَةُ وَلَا أَبُو بِشْرٍ. قَالَ مُحَمَّدٌ: وَلَا نَعْرِفُ لِأَحَدٍ مِنْهُمْ سَمَاعًا مِنْ سُلَيْمَانَ الْيَشْكُرِيِّ، إِلَّا أَنْ يَكُونَ عَمْرُو بْنُ دِينَارٍ، فَلَعَلَّهُ سَمِعَ مِنْهُ فِي حَيَاةِ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: وَإِنَّمَا يُحَدِّثُ قَتَادَةُ عَنْ صَحِيفَةِ سُلَيْمَانَ الْيَشْكُرِيِّ. وَكَانَ لَهُ كِتَابٌ عَنْ جَابِرِ بْنِ عَبْدِ اللهِ.

حَدَّثَنَا أَبُو بَكْرٍ الْعَطَّارُ عَبْدُ الْقُدُّوسِ قَالَ: قَالَ عَلِيُّ بْنُ الْمَدِينِيِّ: قَالَ يَحْيَى بْنُ سَعِيدٍ: قَالَ سُلَيْمَانُ التَّيْمِيُّ: ذَهَبُوا بِصَحِيفَةِ جَابِرِ بْنِ عَبْدِ اللهِ إِلَى الْحَسَنِ الْبَصْرِيِّ فَأَخَذَهَا، أَوْ

he said – 'and they reported it. Then they took it to Qatādah and reported it, so they gave it to me but I did not report it [he said: 'I refused it']. This was narrated to us by Abū Bakr Al-'Aṭṭār from 'Alī bin Al-Madīnī.

قَالَ فَرَوَاهَا، وذَهَبُوا بِهَا إِلَى قَتَادَةَ فَرَوَاهَا، وأَتَونِي بِهَا فَلَمْ أَرْوِهَا [يَقُولُ: رَدَدْتُهَا]. حَدَّثَنَا بِذٰلِكَ أَبُو بَكْرٍ العَطَّارُ عَنْ عَلِيِّ بْنِ المَدِينِيِّ.

تخريج: [صحيح] وأخرجه أحمد: ٣/٣٥٧ من حديث سعيد بن أبي عروبة به ورواه مسلم، ح: ١٦٠٨ من حديث جابر بن عبدالله به وصححه الحاكم: ٢/٥٦ ووافقه الذهبي * قول سليمان التيمي: سنده صحيح.

Comments:

It is proven by this narration that a share holder in a property cannot sell his share until he consults his co-share holder regarding this issue. If the share is sold out without the consent of co-shareholder, he keeps the right of preemption.

Chapter 72. What Has Been Related About *Al-Mukhābarah* And *Al-Mu'āwamah*

(المعجم ٧٢) - بَابُ مَا جَاءَ فِي الْمُخَابَرَةِ وَالْمُعَاوَمَةِ (التحفة ٧٢)

1313. Abū Az-Zubair narrated from Jābir that the Prophet ﷺ prohibited *Al-Muḥāqalah*, *Al-Muzābanah*, *Al-Mukhābarah*, and *Al-Mu'āwamah*, and he permitted it in the case of *Al-'Arāyā*. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣١٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا أَيُّوبُ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُحَاقَلَةِ والْمُزَابَنَةِ والْمُخَابَرَةِ والْمُعَاوَمَةِ، ورَخَّصَ فِي الْعَرَايَا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، البيوع، باب النهي عن المحاقلة والمزابنة ... إلخ، ح: ١٥٣٦/ ٨٥ من حديث أيوب السختياني به ورواه البخاري، ح: ٢٣٨١ من حديث جابر.

Comments:

"Al-Muḥāqalah" is selling un-harvested grain in the field in exchange for harvested grain like wheat. *"Al-Muzābanah* is selling an estimated amount of fresh dates on the tree for dried dates that are measured, or the same for grapes. *"Al-Mukhābarah"* is renting land in exchange for a portion of its produce. Making an exception in a sale means to make an exception for one item among those purchased without telling the purchaser that seller did not include that item, or the like. *Mu'āwamah* is selling two or three years worth of produce in advance. In *"Al-Muḥāqalah"* and *"Al-Muzābanah"* there is a chance of ending up with less or more of the produce which comes under *Ribā*, so it is unlawful. In the form of *Mukhābarah* and *Mu'āwamah,* deceiving and cheating are involved so it is also unlawful. See *Tuḥfat Al-Aḥwadhī* and *An-Nihāyah*.

Chapter 73. What Has Been Related About Price Fixing[1]

(المعجم ٧٣) - بَابُ [مَا جَاءَ فِي التَّسْعِيرِ] (التحفة ٧٣)

1314. Anas narrated: "Prices became excessive during the time of the Messenger of Allāh ﷺ, so they said: 'O Messenger of Allāh! Set prices for us!' So he said: 'Indeed Allāh is *Al-Musa"ir,* [2] *Al-Qābiḍ, Al-Bāsiṭ,*[3] *Ar-Razzāq*. And I am hopeful that I meet my Lord and none of you are seeking (recompense from) me for an injustice involving blood or wealth.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣١٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا الْحَجَّاجُ بْنُ مِنْهَالٍ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ قَتَادَةَ. وثَابِتٌ وحُمَيْدٌ عَنْ أَنَسٍ، قَالَ: غَلَا السِّعْرُ عَلَى عَهْدِ رَسُولِ اللهِ ﷺ، فَقَالُوا: يَا رَسُولَ اللهِ! سَعِّرْ لَنَا فَقَالَ: «إِنَّ اللهَ هُوَ الْمُسَعِّرُ الْقَابِضُ الْبَاسِطُ الرَّزَّاقُ، وَإِنِّي لَأَرْجُو أَنْ أَلْقَى رَبِّي وَلَيْسَ أَحَدٌ مِنْكُمْ يَطْلُبُنِي بِمَظْلِمَةٍ فِي دَمٍ وَلَا مَالٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، التجارات، باب من كره أن يسعر، ح:٢٢٠٠ من حديث الحجاج بن منهال، وأبو داود، ح:٣٤٥١ من حديث حماد بن سلمة به، وصححه ابن حبان (الإحسان):٤٩١٤ وأورده الضياء في المختارة:٥/٢٨، ٢٩، ح:١٦٣١، ١٦٣٢.

Comments:

Rates of the market depend on demand and supply. If the required commodity is in surplus and freely available in the market the rate will drop. It is the duty of the buyer to be careful and observant and he should not buy more than his need, and it is better if the purchase of the item at the period of scarcity is avoided. This kind of behaviour of the customers can keep the price at a reasonable level. Deciding and fixing the rates of the commodities by the government is not the solution of the issue of high rates. Most of the scholars, in the light of various *Ṣaḥīḥ* narrations, disapproved the fixing of rates. (*Tuḥfat Al-Aḥwadhī*. v. 2. p272.)

[1] That is when the authorities set a price limit on goods. See *Tuḥfat Al-Aḥwadhī*.

[2] In *An-Nihāyah* he said: 'It is that He is the One who makes things inexpensive and expensive, He cannot be opposed by anyone. So because of that, it is not allowed to fix prices.' (*Tuḥfat Al-Aḥwadhī*).

[3] Meaning: He restricts sustenance and other than that from whom He wills, regarding what He wills, and how He wills, and He makes it unrestricted. (*Tuḥfat Al-Aḥwadhī*).

Chapter 74. What Has Been Related About Cheating In Sales Is Disliked

(المعجم ٧٤) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْغِشِّ فِي الْبُيُوعِ (التحفة ٧٤)

1315. Abū Hurairah narrated that the Messenger of Allāh ﷺ passed by a pile of food. He put his fingers in it and felt wetness. He said: 'O owner of the food! What is this?' He replied: 'It was rained upon O Messenger of Allāh.' He said: 'Why not put it on top of the food so the people can see it?' Then he said: 'Whoever cheats, he is not one of us.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Umar, Abū Al-Ḥamrā', Ibn 'Abbās, Buraidah, Abū Burdah bin Niyār, and Ḥudhaifah bin Al-Yamān.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. They dislike cheating and they say that cheating is unlawful.

١٣١٥ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنِ الْعَلَاءِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ مَرَّ عَلَى صُبْرَةٍ مِنْ طَعَامٍ، فَأَدْخَلَ يَدَهُ فِيهَا، فَنَالَتْ أَصَابِعُهُ بَلَلًا. فَقَالَ: «يَا صَاحِبَ الطَّعَامِ مَا هٰذَا؟!» قَالَ: أَصَابَتْهُ السَّمَاءُ، يَا رَسُولَ اللهِ! قَالَ: «أَفَلَا جَعَلْتَهُ فَوْقَ الطَّعَامِ حَتَّى يَرَاهُ النَّاسُ»؟ ثُمَّ قَالَ: «مَنْ غَشَّ فَلَيْسَ مِنَّا».

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ وَأَبِي الْحَمْرَاءِ وَابْنِ عَبَّاسٍ وبُرَيْدَةَ وَأَبِي بُرْدَةَ بْنِ نِيَارٍ وَحُذَيْفَةَ بْنِ الْيَمَانِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. كَرِهُوا الْغِشَّ، وَقَالُوا: الْغِشُّ حَرَامٌ.

تخريج: وأخرجه مسلم، الإيمان، باب قول النبي ﷺ: "من غشنا فليس منا"، ح:١٠٢ عن علي بن حجر به * وفي الباب عن ابن عمر [أحمد:٣/ ٥٠] وأبي الحمراء [ابن ماجه، ح:٢٢٢٥] وابن عباس [الطبراني في الكبير: ١١/ ٢٢١، ح:١١٥٥٣] وبريدة [حارث بن أبي أسامة/ المطالب العالية:٣/ ٧١، ح:٢٩٠٥] وأبي بردة بن دينار [أحمد:٣/ ٤٦٦، ٤/ ٤٥] وحذيفة بن اليمان [الطبراني في الأوسط:١/ ٥٢٩، ح:٩٩٧].

Comments:

Cheating, deceiving and breaching the trust is against the faith, well being, and trust of the society. Therefore, the one who hides the defects and drawbacks of sale commodities acts against the norms of Islam. That is why the Prophet ﷺ said, "He is not from us."

Chapter 75. What Has Been Related About Taking A Camel Or Other Animals On Loan

(المعجم ٧٥) - بَابُ مَا جَاءَ فِي اسْتِقْرَاضِ الْبَعِيرِ أَوِ الشَّيْءِ مِنَ الْحَيَوَانِ [أَوِ السِّنِّ] (التحفة ٧٥)

1316. Abū Hurairah narrated: "The Messenger of Allāh ﷺ took a camel of a particular age on loan. He gave back to him a camel of a better age than the one he was given. He said: 'The best among you is the best in repaying.'" ***(Ṣaḥīḥ)***

[He said:] There is something on this topic from Abū Rāfi'.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Shu'bah and Sufyān reported it from Salamah.

This is acted upon according to some of the people of knowledge, they saw no harm in taking a camel of a particular age as a loan. This is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq. But some of them disliked that.

١٣١٦ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنْ عَلِيِّ بْنِ صَالِحٍ، عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: اسْتَقْرَضَ رَسُولُ اللهِ ﷺ سِنًّا فَأَعْطَاهُ سِنًّا خَيْرًا مِنْ سِنِّهِ وَقَالَ: «خِيَارُكُمْ أَحَاسِنُكُمْ قَضَاءً».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي رَافِعٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رَوَاهُ شُعْبَةُ وسُفْيَانُ عَنْ سَلَمَةَ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، لَمْ يَرَوْا بِاسْتِقْرَاضِ السِّنِّ بَأْسًا مِنَ الإِبِلِ. وَهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ. وكَرِهَ بَعْضُهُمْ ذَلِكَ.

تخريج: متفق عليه، وأخرجه مسلم، المساقاة، باب جواز اقتراض الحيوان واستحباب توفيته خيرًا مما عليه، ح:١٦٠١ عن أبي كريب والبخاري، ح:٢٣٠٥ من حديث سلمة بن كهيل به * وفي الباب عن أبي رافع [يأتي:١٣١٨].

Comments:

Obtaining an animal on the condition that it will be returned in the form of an animal is lawful, and returning a better animal without any prior commitment is also approved. Most of the scholars and Imām Shāfi'ī, Mālik and Aḥmad approve of this deal in the light of the *Ṣaḥīḥ* narration.

1317. Abū Hurairah narrated: "A man behaved in a rude manner while trying to collect a debt from the Messenger of Allāh ﷺ. So his Companions were about to harm him. The Messenger of Allāh ﷺ

١٣١٧ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا شُعْبَةُ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَجُلًا تَقَاضَى رَسُولَ اللهِ ﷺ فَأَغْلَظَ لَهُ، فَهَمَّ

said: 'Leave him, for indeed the owner of the right has the right to speak.' Then he said: 'Purchase a camel for him and give it to him.' So they searched but they did not find a camel but of a better age than his camel. So he said: 'Buy it and give it to him. For indeed the best of you is the best in repaying.'" (*Ṣaḥīḥ*)

(Another chain of narration with similar meaning)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

بِهِ أَصْحَابُهُ. فَقَالَ رَسُولُ اللهِ ﷺ: «دَعُوهُ، فَإِنَّ لِصَاحِبِ الْحَقِّ مَقَالًا» ثُمَّ قَالَ: «اشْتَرُوا لَهُ بَعِيرًا، فَأَعْطُوهُ إِيَّاهُ» فَطَلَبُوهُ فَلَمْ يَجِدُوا إِلَّا سِنًّا أَفْضَلَ مِنْ سِنِّهِ. فَقَالَ: «اشْتَرُوهُ فَأَعْطُوهُ إِيَّاهُ، فَإِنَّ خَيْرَكُمْ أَحْسَنُكُمْ قَضَاءً».

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الوكالة، باب الوكالة في قضاء الديون، ح:٢٣٠٦ ومسلم، ح:١٦٠١ من حديث شعبة به.

Comments:

A creditor has the right to ask for the return of his debt. In this connection, if the debtor has the ability to return the amount but he makes lame excuses and delays the payment, the lender has the right to press him through society, and can take him to court. In the context of this narration, the lender had no genuine reason to utter harsh words to the Prophet ﷺ, but as the occasion arose, the Prophet ﷺ explained the details of the issue, and the behaviour of the Muslims as it ought to be in such situations.

1318. Abū Rāfi', the freed slave of the Messenger of Allāh ﷺ narrated: "The Messenger of Allāh got a camel on advance. Some camels came from the charity." Abū Rāfi' said: "So the Messenger of Allāh ﷺ told me to pay the man back for his camel. I said: 'I did not find among the camels but a superior selection of *Rabā'*'.[1] the Messenger of Allāh ﷺ said: 'Give it to him, for indeed the best of people is the best of them in repaying.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣١٨ - حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ: حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ زَيْدِ ابْنِ أَسْلَمَ، عَنْ عَطَاءِ بْنِ يَسَارٍ، عَنْ أَبِي رَافِعٍ مَوْلَى رَسُولِ اللهِ ﷺ قَالَ: اسْتَسْلَفَ رَسُولُ اللهِ ﷺ بَكْرًا. فَجَاءَتْهُ إِبِلٌ مِنَ الصَّدَقَةِ. قَالَ أَبُو رَافِعٍ. فَأَمَرَنِي رَسُولُ اللهِ ﷺ أَنْ أَقْضِي الرَّجُلَ بَكْرَهُ. فَقُلْتُ: لَا أَجِدُ فِي الإِبِلِ إِلَّا جَمَلًا خِيَارًا رَبَاعِيًا، فَقَالَ رَسُولُ اللهِ ﷺ: «أَعْطِهِ إِيَّاهُ، فَإِنَّ خِيَارَ النَّاسِ أَحْسَنُهُمْ قَضَاءً».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[1] A camel that has entered its seventh year. See *Tuḥfat Al-Aḥwadhī* and *An-Nihāyah*.

تخريج: وأخرجه مسلم، المساقاة، باب جواز اقتراض الحيوان واستحباب توفيته خيرًا مما عليه، ح: ١٦٠٠ من حديث مالك به وهو في الموطأ: ٢/ ٦٨٠.

Comments:

If the Prophet ﷺ had borrowed the camel for his personal need, he returned it after purchase, from the camels of charity, as it is clear from the narration of Abū Hurairah. If he borrowed it for fulfilling the needs of Muslims, a better camel was returned to him from the camels of the charity.

Chapter (...) What Has Been Related About Tolerance In Selling, Buying, And Repaying

(المعجم . . .) بَابُ [مَا جَاءَ فِي سَمْحِ الْبَيْعِ وَالشِّرَاءِ وَالْقَضَاءِ] (التحفة ٧٦)

1319. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Indeed Allāh loves tolerence in selling, tolerance in buying, and tolerance with repaying." ***(Ḍa'īf)***

[He said: There is something on this topic from Jābir.]

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*. Some of them reported this *Ḥadīth* from Yūnus, from Sa'eed Al-Maqburī, from Abū Hurairah.

١٣١٩ - أَخْبَرَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا إِسْحَاقُ بْنُ سُلَيْمَانَ [الرَّازِيُّ] عَنْ مُغِيرَةَ بْنِ مُسْلِمٍ، عَنْ يُونُسَ، عَنِ الْحَسَنِ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِنَّ اللهَ يُحِبُّ سَمْحَ الْبَيْعِ، سَمْحَ الشِّرَاءِ، سَمْحَ الْقَضَاءِ». [قَالَ: وَفِي الْبَابِ عَنْ جَابِرٍ].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ. وَقَدْ رَوَى بَعْضُهُمْ هٰذَا الْحَدِيثَ، عَنْ يُونُسَ، عَنْ سَعِيدٍ الْمَقْبُرِيِّ، عَنْ أَبِي هُرَيْرَةَ.

تخريج: [إسناده ضعيف] * يونس بن عبيد مدلس وعنعن وللحديث لون آخر ضعيف عند الحاكم: ٢/ ٥٦ وصححه ووافقه الذهبي * وفي الباب عن جابر [يأتي: ١٣٢٠] يغني عنه.

Comments:

In the light of this narration, a Muslim's behavior as a buyer, seller, and in mutual dealings has been described. It is required to be tolerant in all kinds of commercial dealings. One should be truthful, easy and kind to the other party. Defects and drawbacks as well as good quality of the sale commodity should be made clear before the sale. Measure and weight should always be in favor of the customer. The lender is required to be easy and kind with the poor and needy debtor. He should be given time for repayment.

1320. Jābir narrated that the Messenger of Allāh ﷺ said: "Allāh forgave a man who was before you: He was tolerant when selling, tolerant when purchasing, and tolerent when repaying." ***(Ḥasan)***

١٣٢٠ - حَدَّثَنِي عَبَّاسُ بْنُ مُحَمَّدٍ الدُّورِيُّ: حَدَّثَنَا عَبْدُ الْوَهَّابِ بْنُ عَطَاءٍ: حَدَّثَنَا إِسْرَائِيلُ عَنْ زَيْدِ بْنِ عَطَاءِ بْنِ السَّائِبِ، عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ، عَنْ جَابِرٍ

قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «غَفَرَ اللهُ لِرَجُلٍ كَانَ قَبْلَكُمْ، كَانَ سَهْلًا إِذَا بَاعَ، سَهْلًا إِذَا اشْتَرَى، سَهْلًا إِذَا اقْتَضَى».

[قَالَ:] هٰذَا حَدِيثٌ غَرِيبٌ صَحِيحٌ حَسَنٌ مِنْ هٰذَا الْوَجْهِ.

[He said:] This *Ḥadīth* is *Gharīb Ṣaḥīḥ Ḥasan* from this route.

تخريج: [إسناده حسن] وأخرجه أحمد: ٣/٣٤٠ عن عبدالوهاب به ورواه البخاري، ح: ٢٠٧٦ من حديث محمد بن المنكدر به.

Comments:

It appears from a unanimously agreed upon *Ṣaḥīḥ* narration, that one should be tolerant in buying, tolerant in selling and tolerant in repayment. His behaviour with people should be commendable, he must give time to people for repayment, and he must remit the debts of poor and needy.

Chapter 76. The Prohibition Of Selling In The *Masjid*

(المعجم ٧٦) - بَابُ النَّهْيِ عَنِ الْبَيْعِ فِي الْمَسْجِدِ (التحفة ٧٧)

١٣٢١ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عارِمٌ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ: أَخْبَرَنَا يَزِيدُ بْنُ خُصَيْفَةَ عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمٰنِ بْنِ ثَوْبَانَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِذَا رَأَيْتُمْ مَنْ يَبِيعُ أَوْ يَبْتَاعُ فِي الْمَسْجِدِ، فَقُولُوا: لَا أَرْبَحَ اللهُ تِجَارَتَكَ، وَإِذَا رَأَيْتُمْ مَنْ يَنْشُدُ فِيهِ ضَالَّةً فَقُولُوا: لَا رَدَّ اللهُ عَلَيْكَ».

حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ، وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، كَرِهُوا الْبَيْعَ وَالشِّرَاءَ فِي الْمَسْجِدِ. وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ، فِي الْبَيْعِ وَالشِّرَاءِ فِي الْمَسْجِدِ.

1321. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "When you see someone selling or buying in the *Masjid* then say: 'May Allāh not profit your business.' And when you see someone announcing about something lost then say: 'May Allāh not return it to you.'" (***Ṣaḥīḥ***)

The *Ḥadīth* of Abū Hurairah is *Ḥasan Gharīb*. This is acted upon according to some of the people of knowledge. They dislike selling and buying in the *Masjid*. This is the view of Aḥmad and Isḥāq. Some of the people of knowledge permitted selling and buying in the *Masjid*.

تخريج: [إسناده صحيح] وأخرجه النسائي في عمل اليوم والليلة، ح: ١٧٦ من حديث عبدالعزيز الدراوردي به وصححه ابن خزيمة، ح: ١٣٠٥ وابن حبان، ح: ٣١٣ والحاكم على شرط مسلم: ٢/٥٦ ووافقه الذهبي ورواه مسلم، ح: ٥٦٨ من حديث أبي هريرة.

Comments:

Mosques are Houses of Allāh, people go to mosques for performing obligatory prayers, remembrance of Allāh and recitation of the Qur'ān. If the dealings of the worldly affairs were permitted in the mosques, the real purpose of mosques would have suffered, therefore, it is not allowed in the mosques.

In the Name of Allāh, the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

13. The Chapters On Judgements From The Messenger of Allāh ﷺ

(المعجم ١٣) - أَبْوَابُ الْأَحْكَامِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١١)

Chapter 1. What Has Been Related From The Messenger of Allāh ﷺ About The Judge

(المعجم ١) - بَابُ مَا جَاءَ، عَنْ رَسُولِ اللهِ ﷺ فِي الْقَاضِي (التحفة ١)

1322. 'Abdullāh bin Mawhab narrated that 'Uthmān said to Ibn 'Umar: "Go and judge between the people." So he said: "Perhaps you can excuse me (from that) O Commander of the Believers!" He said: "Why do you have an aversion for that when your father judged?" He said: "I heard the Messenger of Allāh ﷺ saying: 'Whoever was a judge and judged with justice, it still would have been better for him to have turned away from it completely.' What do I want after that ?'" ***(Da'īf)***

١٣٢٢ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الأَعْلَى [الصَّنْعَانِيُّ]: حَدَّثَنَا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ قَالَ: سَمِعْتُ عَبْدَ الْمَلِكِ يُحَدِّثُ عَنْ عَبْدِ اللهِ ابْنِ مَوْهَبٍ أَنَّ عُثْمَانَ قَالَ لِابْنِ عُمَرَ: اذْهَبْ فَاقْضِ بَيْنَ النَّاسِ قَالَ: أَوَ تُعَافِينِي يَا أَمِيرَ الْمُؤْمِنِينَ! قَالَ: فَمَا تَكْرَهُ مِنْ ذَلِكَ وَقَدْ كَانَ أَبُوكَ يَقْضِي؟ قَالَ: إِنِّي سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ كَانَ قَاضِيًا فَقَضَى بِالْعَدْلِ، فَبِالْحَرِيِّ أَنْ يَنْقَلِبَ مِنْهُ كَفَافًا». فَمَا أَرْجُو بَعْدَ ذَلِكَ؟.

There is a story with this *Hadīth*, and there is something on this topic from Abū Hurairah.

وَفِي الْحَدِيثِ [قَالَ] قِصَّةٌ. وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Umar is *Gharīb*. To me, its chain is not connected. 'Abdul-Mālik, the one from whom Al-Mu'tamir reported this, is 'Abdul-Mālik bin Abī Jamīlah.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ غَرِيبٌ، وَلَيْسَ إِسْنَادُهُ عِنْدِي بِمُتَّصِلٍ وَعَبْدُ الْمَلِكِ الَّذِي رَوَى عَنْهُ الْمُعْتَمِرُ هٰذَا، هُوَ عَبْدُ الْمَلِكِ بْنُ أَبِي جَمِيلَةَ.

تخريج: [**إسناده ضعيف**] وأخرجه أبو يعلى: ١٠/ ٩٣، ح: ٥٧٢٧ وابن حبان، ح: ١١٩٥ من حديث المعتمر به عبدالملك مجهول (تقريب) * وفي الباب عن أبي هريرة [يأتي: ١٣٢٥].

Comments:

"Whoever was a judge and judged with justice, it still would have been better for him to have turned away..." If there is no reward or punishment for him, then why should he accept this position. For this reason, Ibn 'Umar refused to accept this post, though 'Uthmān insisted that he accept it.

1322B. [Ibn Buraidah narrated from his father that the Prophet ﷺ said: "The judges are three: Two judges that are in the Fire, and a judge that is in Paradise. A man who judges without the truth, and he knows that. This one is in the Fire. One who judges while not knowing, ruining the rights of the people. So he is in the Fire. A judge who judges with the truth, that is the one in Paradise."] ***(Da'īf)***

١٣٢٢م - [حَدَّثَنَا مُحَمَّدُ بْنُ إِسْمَاعِيلَ: حَدَّثَنِي الْحُسَيْنُ بْنُ بِشْرٍ: حَدَّثَنَا شَرِيكٌ عَنِ الأَعْمَشِ، عَنْ سَهْلِ بْنِ عُبَيْدَةَ، عَنِ ابْنِ بُرَيْدَةَ، عَنْ أَبِيهِ أَنَّ النَّبِيَّ ﷺ قَالَ: «الْقُضَاةُ ثَلَاثَةٌ: قَاضِيَانِ فِي النَّارِ، وَقَاضٍ فِي الْجَنَّةِ: رَجُلٌ قَضَى بِغَيْرِ الْحَقِّ فَعَلِمَ ذَاكَ فَذَاكَ فِي النَّارِ، وَقَاضٍ لَا يَعْلَمُ فَأَهْلَكَ حُقُوقَ النَّاسِ فَهُوَ فِي النَّارِ، وَقَاضٍ قَضَى بِالْحَقِّ فَذٰلِكَ فِي الْجَنَّةِ»].

تخريج: [إسناده ضعيف] ورواه أبو داود، القضاء، باب: في القاضي يخطىء، ح:٣٥٧٣ وابن ماجه، ح:٢٣١٥ من حديث ابن بريدة، الأعمش وشريك عنعنا به وله شاهد ضعيف عند الطبراني (مجمع: ٤/١٩٣).

Comments:

According to this narration a person who is incompetent of being a judge and has no ability and knowledge of Islamic Jurisprudence, and still takes the responsibility, will go to Hell. Similarly a judge who has all the qualities of being a judge, and knowingly passes wrong verdicts will go to Hell. Only the judge who is a just judge, and gives the judgements according to the standards of justice will go to Paradise. Becoming a judge and accepting this post is a very demanding job, as it is clear from the preceding narrations.

1322. Anas bin Mālik narrated that the Messenger of Allāh ﷺ said: "Whoever asks for a postion as a judge, then he is left on his own. And whoever is forced into it, Allāh sends an angel down to him so that he can be correct." ***(Da'īf)***

١٣٢٣ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وَكِيعٌ عَنْ إِسْرَائِيلَ، عَنْ عَبْدِ الأَعْلَى، عَنْ بِلَالِ بْنِ أَبِي مُوسَى، عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ سَأَلَ الْقَضَاءَ، وُكِلَ إِلَى نَفْسِهِ، وَمَنْ أُجْبِرَ عَلَيْهِ، يُنْزِلُ اللهُ عَلَيْهِ مَلَكًا فَيُسَدِّدُهُ».

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الأحكام، باب ذكر القضاة، ح:٢٣٠٩ من حديث وكيع به * عبدالأعلى الثعلبي ضعيف كما في تسهيل الحاجة، ح:١٥٥٢.

Comments:

The next narration makes it clear that whoever aspires to become a judge and acquire this post, with some influence or links and recommendations, he looses the guidance from Allāh and becomes the slave of one's base self.

1324. Anas narrated that the Prophet ﷺ said: "Whoever seeks to be a judge, and asks others to intercede for him with it, then he will be left on his own. And whoever is coerced into it, Allāh sends an angel down to him so that he can be correct." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. It is more correct than the narration of Isrā'īl (no. 1323) from 'Abdul-A'lā.

١٣٢٤ - **حَدَّثَنَا** عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمٰنِ: حَدَّثَنَا يَحْيَى بْنُ حَمَّادٍ عَنْ أَبِي عَوانَةَ، عَنْ عَبْدِ الأَعْلَى الثَّعْلَبِيِّ، عَنْ بِلَالِ بْنِ مِرْدَاسٍ الْفَزَارِيِّ، عَنْ خَيْثَمَةَ - وَهُوَ الْبَصْرِيُّ - عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنِ ابْتَغَى الْقَضَاءَ، وَسَأَلَ فِيهِ شُفَعَاءَ، وُكِلَ إِلَى نَفْسِهِ. وَمَنْ أُكْرِهَ عَلَيْهِ، أَنْزَلَ اللهُ عَلَيْهِ مَلَكًا يُسَدِّدُهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، وَهُوَ أَصَحُّ مِنْ حَدِيثِ إِسْرَائِيلَ عَنْ عَبْدِ الأَعْلَى.

تخريج: [إسناده ضعيف] انظر الحديث السابق.

1325. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever takes the responsibility of judge, or is appointed as a judge between the people, then he has been slaughtered without a knife." (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb* from this route. It has also been reported through routes other than this from Abū Hurairah.

١٣٢٥ - **حَدَّثَنَا** نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا الْفُضَيْلُ بْنُ سُلَيْمَانَ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو، عَنْ سَعِيدٍ الْمَقْبُرِيِّ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ وَلِيَ الْقَضَاءَ، أَوْ جُعِلَ قَاضِيًا بَيْنَ النَّاسِ، فَقَدْ ذُبِحَ بِغَيْرِ سِكِّينٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. وَقَدْ رُوِيَ أَيْضًا مِنْ غَيْرِ هٰذَا الْوَجْهِ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: [إسناده حسن] وأخرجه أبو داود، القضاء، باب: في طلب القضاء، ح: ٣٥٧١ عن نصر بن علي به وصححه الحاكم: ٤/ ٩١ ووافقه الذهبي، وله شواهد.

Comments:

This narration makes it clear that accepting the post of judge is to put oneself in big troubles. This post is a continuous and permanent test of one's honesty. So one should not aspire to become a judge. If at all this position is entrusted to one, then he should seek Allāh's help and guidance.

Chapter 2. What Has Been Related About The Judge That Is Correct And The Judge That Is Mistaken

(المعجم ٢) - بَابُ مَا جَاءَ فِي الْقَاضِي يُصِيبُ وَيُخْطِئُ (التحفة ٢)

1326. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "When the judge passes a judgement in which he strived and was correct, then he receives two rewards. And when he judges and is mistaken, then he receives one reward." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Amr bin Al-'Āṣ, and 'Uqbah bin 'Āmir.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Hasan Gharīb Ḥadīth* from this route. We do not know of it as a narration of Sufyān Ath-Thawrī, from Yaḥya bin Sa'eed, except through the narration of 'Abdur-Razzāq from Ma'mar, from Sufyān Ath-Thawrī.

١٣٢٦ - حَدَّثَنَا الْحُسَيْنُ بْنُ مَهْدِيٍّ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنْ سُفْيَانَ الثَّوْرِيِّ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ أَبِي بَكْرِ ابْنِ مُحَمَّدِ بْنِ عَمْرِو بْنِ حَزْمٍ، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا حَكَمَ الْحَاكِمُ فَاجْتَهَدَ فَأَصَابَ، فَلَهُ أَجْرَانِ، وإِذَا حَكَمَ فَأَخْطَأَ فَلَهُ أَجْرٌ وَاحِدٌ».

[قَالَ:] وَفِي الْبَابِ عَنْ عَمْرِو بْنِ الْعَاصِ وَعُقْبَةَ بْنِ عَامِرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ، لَا نَعْرِفُهُ مِنْ حَدِيثِ سُفْيَانَ الثَّوْرِيِّ، عَنْ يَحْيى ابْنِ سَعِيدٍ، إِلَّا مِنْ حَدِيثِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنْ سُفْيَانَ الثَّوْرِيِّ.

تخريج: [صحيح] وأخرجه النسائي:٨/ ٢٢٤، ح:٥٣٨٣ (آداب القضاء، باب الإصابة في الحكم) من حديث عبدالرزاق، والبخاري، ح:٧٣٥٢ ومسلم، ح:١٧١٦ من حديث أبي بكر بن محمد به * وفي الباب عن عمرو بن العاص [مسلم، ح:١٧١٦ والبخاري، ح:٧٣٥٢] وعقبة بن عامر [أحمد:٤/ ٢٠٥].

Comments:

This narration proves that a judge or a head of the state who has the qualities and abilities of doing justice, and he tries to know and understand the issue, and its inner intentions and details, and reaches the right decision, then he gets a double reward from Allāh; one for the right decision, and the other for pains taken to reach the right decision. In this process, if in spite of all his sincere efforts, and due to the complications of the issue, he does not reach the right decision he still gets one reward. This reward is for his sincere efforts to reach the truth.

Chapter 3. What Has Been Related About How The Judge Is To Make A Judgement

(المعجم ٣) - بَابُ مَا جَاءَ فِي الْقَاضِي كَيْفَ يَقْضِي (التحفة ٣)

1327. Some men who were companions of Mu'ādh narrated from Mu'ādh that the Messenger of Allāh ﷺ sent Mu'ādh to Yemen, so he ﷺ said: "How will you judge?" He said: "I will judge according to what is in Allāh's Book." He said: "If it is not in Allāh's Book?" He said: "Then with the *Sunnah* of the Messenger of Allāh ﷺ." He said: "If it is not in the *Sunnah* of the Messenger of Allāh ﷺ?" He said: "I will give in my view." He said: "All praise is due to Allāh, the One Who made the messenger of the Messenger of Allāh suitable." (***Ḍa'īf***)

١٣٢٧ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وَكِيعٌ عَنْ شُعْبَةَ، عَنْ أَبِي عَوْنٍ [الثَّقَفِيِّ]، عَنِ الحَارِثِ ابْنِ عَمْرٍو، عَنْ رِجَالٍ مِنْ أَصْحَابِ مُعَاذٍ، عَنْ مُعَاذٍ أَنَّ رَسُولَ اللهِ ﷺ بَعَثَ مُعَاذًا إِلَى الْيَمَنِ فَقَالَ: «كَيْفَ تَقْضِي»؟ فَقَالَ: أَقْضِي بِمَا فِي كِتَابِ اللهِ. قَالَ: «فَإِنْ لَمْ يَكُنْ فِي كِتَابِ اللهِ»؟ قَالَ: فَبِسُنَّةِ رَسُولِ اللهِ ﷺ. قَالَ: «فَإِنْ لَمْ يَكُنْ فِي سُنَّةِ رَسُولِ اللهِ ﷺ؟» قَالَ: أَجْتَهِدُ رَأْيِي. قَالَ: «الْحَمْدُ للهِ الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللهِ [ﷺ]».

تخريج: [إسناده ضعيف] وأخرجه أبو داود، القضاء، باب اجتهاد الرأي في القضاء، ح: ٣٥٩٢ من حديث شعبة به وضعفه البخاري والدارقطني والعقيلي وغيرهم * الحارث بن عمرو: مجهول (تقريب) ورجال من أصحاب معاذ: مجاهيل، وفيه علة أخرى.

1328. (Another chain of narrators) from some people from the inhabitants of Ḥimṣ, from Mu'ādh, from the Prophet ﷺ, with similar. (***Ḍa'īf***)

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* except from this route. To me, its chain is not connected. Abū 'Awn Ath-Thaqafī's name is Muḥammad bin 'Ubaidullāh.

١٣٢٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ وَعَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ قَالَا: حَدَّثَنَا شُعْبَةُ عَنْ أَبِي عَوْنٍ، عَنِ الْحَارِثِ بْنِ عَمْرٍو، ابْنِ أَخٍ لِلْمُغِيرَةِ بْنِ شُعْبَةَ، عَنْ أُنَاسٍ مِنْ أَهْلِ حِمْصَ، عَنْ مُعَاذٍ عَنِ النَّبِيِّ ﷺ بِنَحْوِهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ، وَلَيْسَ إِسْنَادُهُ عِنْدِي بِمُتَّصِلٍ. وَأَبُو عَوْنٍ الثَّقَفِيُّ، اسْمُهُ مُحَمَّدُ بْنُ عُبَيْدِ اللهِ.

تخريج: [إسناده ضعيف] انظر الحديث السابق.

Chapter 4. What Has Been Related About The Just *Imām*

(المعجم ٤) - بَابُ مَا جَاءَ فِي الْإِمَامِ الْعَادِلِ (التحفة ٤)

1329. Abū Sa'eed narrated that the Messenger of Allāh ﷺ said: "Indeed, the most beloved of people to Allāh on the Day of Judgement, and the nearest to Him in status is the just *Imām*. And the most hated of people to Allāh and the furthest from Him in status is the oppresive *Imām*." (***Ḍa'īf***)

[He said:] There is something on this topic from ['Abdullāh] Ibn Abī Awfā.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Sa'eed is a *Ḥasan Gharīb Ḥadīth*, we do not know of it except through this route.

١٣٢٩ - حَدَّثَنَا عَلِيُّ بْنُ الْمُنْذِرِ الْكُوفِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ فُضَيْلٍ عَنْ فُضَيْلِ بْنِ مَرْزُوقٍ، عَنْ عَطِيَّةَ، عَنْ أَبِي سَعِيدٍ، قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَحَبَّ النَّاسِ إِلَى اللهِ يَوْمَ الْقِيَامَةِ، وَأَدْنَاهُمْ مِنْهُ مَجْلِسًا، إِمَامٌ عَادِلٌ؛ وَأَبْغَضَ النَّاسِ إِلَى اللهِ، وَأَبْعَدَهُمْ مِنْهُ مَجْلِسًا إِمَامٌ جَائِرٌ».

[قَالَ:] وَفِي الْبَابِ عَنْ [عَبْدِ اللهِ] بْنِ أَبِي أَوْفَى.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي سَعِيدٍ حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ.

تخريج: [**إسناده ضعيف**] وأخرجه أحمد: ٣/ ٢٢ من حديث فضيل بن مرزوق به وهو ضعيف كما في تسهيل الحاجة، ح: ٧٧٨، وعطية العوفي ضعيف مدلس * وفي الباب عن عبدالله بن أبي أوفى [يأتي: ١٣٣٠].

Comments:

This narration gives good news and glad tidings to just, upright and honest rulers and the people in authority, that on the Day of Judgement they will be among the most beloved and nearest to Allāh.

1330. ['Abdullāh] Ibn Abī Al-Awfā narrated that the Messenger of Allāh ﷺ said: "[Indeed] Allāh is with the judge as long as he is not unjust. So when he is unjust, He leaves him and he is attended by *Shaiṭān*." (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Gharīb*, we do not know of it except as a narration of 'Imrān Al-Qaṭṭān.

١٣٣٠ - حَدَّثَنَا عَبْدُ الْقُدُّوسِ بْنُ مُحَمَّدٍ أَبُو بَكْرٍ الْعَطَّارُ: حَدَّثَنَا عَمْرُو بْنُ عَاصِمٍ: حَدَّثَنَا عِمْرَانُ الْقَطَّانُ عَنْ أَبِي إِسْحَاقَ الشَّيْبَانِيِّ، عَنْ [عَبْدِاللهِ] بْنِ أَبِي أَوْفَى، قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «[إِنَّ] اللهَ مَعَ الْقَاضِي مَا لَمْ يَجُرْ. فَإِذَا جَارَ تَخَلَّى عَنْهُ وَلَزِمَهُ الشَّيْطَانُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عِمْرَانَ الْقَطَّانِ.

تخريج: [حسن] وصححه ابن حبان، ح: ١٥٤٠ والحاكم: ٤/ ٩٣ ووافقه الذهبي ورواه ابن ماجه، ح: ٢٣١٢ من حديث عمران القطان به بالاختلاف في السند وسنده حسن.

Comments:

Allāh is with a head of state and a judge as long as he is not unjust, and he uses his authority only for truth, justice and the welfare of the society. Allāh's help and guidance remains with him as long as he follows the right path of justice and honesty, but when he deviates from this path, Satan overcomes him and leads him to injustice and oppression.

Chapter 5. What Has Been Related About the Judge Not Judging Between Two Disputants Until He Has Heard Both Of Them

(المعجم ٥) - بَابُ مَا جَاءَ فِي الْقَاضِي لَا يَقْضِي بَيْنَ الْخَصْمَيْنِ حَتَّى يَسْمَعَ كَلَامَهُمَا (التحفة ٥)

1331. 'Alī narrated: "The Messenger of Allāh ﷺ said to me: 'When two men come to you seeking judgement, do not judge for the first until you have heard the statement of the other. Soon you will know how to judge.'" (*Ḍa'īf*)

'Alī said: "I did not err since then."

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

١٣٣١ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا حُسَيْنُ بْنُ عَلِيٍّ الْجُعْفِيُّ عَنْ زَائِدَةَ، عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ حَنَشٍ، عَنْ عَلِيٍّ، قَالَ: قَالَ لِي رَسُولُ اللهِ ﷺ: «إِذَا تَقَاضَى إِلَيْكَ رَجُلَانِ، فَلَا تَقْضِ لِلْأَوَّلِ حَتَّى تَسْمَعَ كَلَامَ الْآخَرِ، فَسَوْفَ تَدْرِي كَيْفَ تَقْضِي».

قَالَ عَلِيٌّ: فَمَا زِلْتُ قَاضِيًا بَعْدُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ١/ ٩٠ عن حسين الجعفي، وأبو داود، ح: ٣٥٨٢ من حديث سماك به وصححه الحاكم: ٤/ ٩٣ والذهبي * حنش بن المعتمر ضعفه الجمهور ولحديثه شواهد معنوية.

Chapter 6. What Has Been Related About The *Imām* Who Looks After People

(المعجم ٦) - بَابُ مَا جَاءَ فِي إِمَامِ الرَّعِيَّةِ (التحفة ٦)

1332. Abul-Ḥasan narrated that 'Amr bin Murrah said to Mu'āwiyah: "I heard the Messenger of Allāh ﷺ saying: 'No *Imām* closes his door on one in need, dire straits and poverty, except that Allāh closes the gates of the

١٣٣٢ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: حَدَّثَنِي عَلِيُّ بْنُ الْحَكَمِ: حَدَّثَنِي أَبُو الْحَسَنِ قَالَ: قَالَ عَمْرُو ابْنُ مُرَّةَ لِمُعَاوِيَةَ: إِنِّي سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَا مِنْ إِمَامٍ يُغْلِقُ بَابَهُ دُونَ ذَوِي

الْحَاجَةِ والخَلَّةِ وَالمَسْكَنَةِ، إِلَّا أَغْلَقَ اللهُ أَبْوَابَ السَّمَاءِ دُونَ خَلَّتِهِ وَحَاجَتِهِ وَمَسْكَنَتِهِ». فَجَعَلَ مُعَاوِيَةُ رَجُلًا عَلَى حَوَائِجِ النَّاسِ.

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَمْرِو بْنِ مُرَّةَ حَدِيثٌ غَرِيبٌ وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ هٰذَا الْوَجْهِ. وَعَمْرُو بْنُ مُرَّةَ الْجُهَنِيُّ، يُكْنَى أَبَا مَرْيَمَ.

Heavens from his dire straits, his needs, and his poverty.' So Mu'āwiyah appointed a man to look after the needs of the people." (***Hasan***)

[He said:] There is something on this topic from Ibn 'Umar.

[Abū 'Eīsā said:] The *Hadīth* of 'Amr bin Murrah is a *Gharīb Hadīth*. This *Hadīth* has been reported from routes other than this one. 'Amr bin Murrah Al-Juhni's *Kunyah* is Abū Maryam.

تخريج: [حسن] وأخرجه أحمد: ٤/ ٢٣١ من حديث علي بن الحكم به وصححه الحاكم: ٤/ ٩٤ ووافقه الذهبي وللحديث شواهد عند أبي داود، ح: ٢٩٤٨ وأحمد: ٥/ ٢٣٨ وغيرهما، انظر الحديث الآتي.

١٣٣٣ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا يَحْيَى بْنُ حَمْزَةَ عَنْ يَزِيدَ بْنِ أَبِي مَرْيَمَ، عَنِ الْقَاسِمِ بْنِ مُخَيْمِرَةَ، عَنْ أَبِي مَرْيَمَ صَاحِبِ النَّبِيِّ ﷺ عَنِ النَّبِيِّ ﷺ: نَحْوَ هٰذَا الحَدِيثِ بِمَعْنَاهُ [وَيَزِيدُ بْنُ أَبِي مَرْيَمَ شَامِيٌّ، وَبُرَيْدُ بْنُ أَبِي مَرْيَمَ كُوفِيٌّ، وَأَبُو مَرْيَمَ هُوَ عَمْرُو بْنُ مُرَّةَ الجُهَنِيُّ].

1333. (Another chain) from Abū Maryam the Companion of the Prophet ﷺ, from the Prophet ﷺ. (***Hasan***)

And it is similar to this *Hadīth* in meaning [Yazīd bin Abī Maryam (one of the narrators) is from Ash-Shām, and Buraid bin Abī Maryam is from Al-Kūfah, and Abū Maryam is 'Amr bin Murrah Al-Juhnī].

تخريج: [إسناده حسن] وأخرجه أبو داود، الخراج، باب: فيما يلزم الإمام من أمر الرعية والحجبة عنهم، ح: ٢٩٤٨ والطبراني: ٢٢/ ٣٣١، ح: ٨٣٢ من حديث يحيى بن حمزة به وصححه الحاكم: ٤/ ٩٣، ٩٤ والذهبي وللحديث شواهد.

Comments:

The Four Guided Caliphs of the Prophet ﷺ, modeling after him, never stopped the general public from visiting and approaching them. Sometimes people came to see them at odd hours but they never hesitated to listen to them and solve their problems. When the Kharijities started terrorist attacks, and 'Alī was martyred by them, and Mu'āwiyah was also attacked, he stopped this practice of admitting the people for his safety. 'Amr bin Murrah came to know this news, so he approached him and narrated to him the words of the Prophet ﷺ. Mu'āwiyah, on hearing these words, appointed a person to listen to their complaints and inform him, and decided the problems of the people accordingly.

Chapter 7. What Has Been Related About 'The Judge Is Not To Pass A Judgement While He Is Angry'

(المعجم ٧) - بَابُ مَا جَاءَ لَا يَقْضِي الْقَاضِي وَهُوَ غَضْبَانُ (التحفة ٧)

1334. 'Abdur-Raḥmān bin Abī Bakrah narrated: "My father wrote to 'Ubaidullāh bin Abī Bakrah who was a judge: "Do not pass a judgement between two people while you are angry, for indeed I heard the Messenger of Allāh ﷺ saying: 'The judge should not judge between two people while he is angry.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, and Abū Bakrah's name is Nufai'.

١٣٣٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ عَبْدِ المَلِكِ بْنِ عُمَيْرٍ، عَنْ عَبْدِ الرَّحْمٰنِ ابْنِ أَبِي بَكْرَةَ قَالَ: كَتَبَ أَبِي إِلَى عُبَيْدِ اللهِ ابْنِ أَبِي بَكْرَةَ وَهُوَ قَاضٍ، أَنْ لَا تَحْكُمَ بَيْنَ اثْنَيْنِ وَأَنْتَ غَضْبَانُ. فَإِنِّي سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «لَا يَحْكُمُ الْحَاكِمُ بَيْنَ اثْنَيْنِ وَهُوَ غَضْبَانُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وَأَبُو بَكْرَةَ، اسْمُهُ نُفَيْعٌ.

تخريج: متفق عليه، أخرجه مسلم، الأقضية، باب كراهة قضاء القاضي وهو غضبان، ح:١٧١٧ عن قتيبة والبخاري، ح:٧١٥٨ من حديث عبدالملك بن عمير به.

Comments:

This narration is the best guidance for the judges. They should not sit on the seat of justice when they are in a state of anger. It is not possible for a person to think rationally and reach the right decision in rage and anger, so the judge should not resume his seat of justice until he is calm and rational.

Chapter 8. What Has Been Related About Gifts Taken By Governors

(المعجم ٨) - بَابُ مَا جَاءَ فِي هَدَايَا الْأُمَرَاءِ (التحفة ٨)

1335. Mu'ādh bin Jabal narrated: "The Messenger of Allāh ﷺ dispatched me to Yemen. When I had left, he sent a message after me, so I returned and he said: 'Do you know why I sent a message to you? Do not take anything without my permission, for that will be *Ghulūl*,[1] and whoever commits

١٣٣٥ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو أُسَامَةَ عَنْ دَاوُدَ بْنِ يَزِيدَ الأَوْدِيِّ، عَنِ الْمُغِيرَةِ بْنِ شُبَيْلٍ، عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ، عَنْ مُعَاذِ بْنِ جَبَلٍ قَالَ: بَعَثَنِي رَسُولُ اللهِ ﷺ إِلَى الْيَمَنِ، فَلَمَّا سِرْتُ، أَرْسَلَ فِي أَثَرِي، فَرُدِدْتُ فَقَالَ: «أَتَدْرِي لِمَ بَعَثْتُ إِلَيْكَ؟. لَا

[1] See *Ḥadīth* no. 1.

Ghulūl, he comes with what he took on the Day of Judgement. This is why I called you, so now go and do your job.'" (*Ḍa'īf*)

[He said:] There are narrations on this topic from 'Adī bin 'Umair, Buraidah, Al-Mustawrid bin Shaddād, Abū Ḥumaid, and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Mu'ādh is a *Ḥasan Gharīb Ḥadīth*, we do not know of it except from this route, as a narration of Abū Umāmah from Dāwūd Al-Awdī.

تُصِيبَنَّ شَيْئًا بِغَيرِ إِذْنِي فَإِنَّهُ غُلُولٌ، وَمَنْ يَغْلُلْ يَأْتِ بِمَا غَلَّ يَوْمَ الْقِيامَةِ. لِهٰذَا دَعَوْتُكَ، فَامْضِ لِعَمَلِكَ».

[قَالَ:] وَفِي الْبَابِ عَنْ عَدِيِّ بْنِ عَمِيرَةَ وَبُرَيْدَةَ والمُسْتَوْرِدِ بْنِ شَدَّادٍ وَأَبِي حُمَيْدٍ وابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ مُعَاذٍ، حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ أَبِي أُسَامَةَ عَنْ دَاوُدَ الأَوْدِيِّ.

تخريج: [إسناده ضعيف] وأخرجه الطبراني: ٢٠/ ١٢٨، ح: ٢٥٩ من حديث أبي كريب به * داود الأودي ضعيف (تقريب) * وفي الباب عن عدي بن عميرة [مسلم، ح: ١٨٣٣] وبريدة [أبو داود، ح: ٢٩٤٣] والمستورد بن شداد [أبو داود، ح: ٢٩٤٥] وأبي حميد [البخاري، ح: ٧١٧٤ وأحمد: ٥/ ٤٢٤] وابن عمر [الحاكم: ١/ ٣٩٩].

Comments:

When a person gets a post and position of authority in some government department, usually people from the general public go to visit him and offer congratulations, and present gifts as a token of good will. These gifts are not presented to him but to his authoritative post. So accepting such gifts is unlawful. These gifts, according to this narration, come under the category of bribery and misuse of authority.

Chapter 9. What Has Been Related About The One Who Gives A Bribe And The One Who Takes A Bribe For Judgement

(المعجم ٩) - بَابُ مَا جَاءَ فِي الرَّاشِي وَالْمُرْتَشِي فِي الْحُكْمِ (التحفة ٩)

1336. Abū Hurairah narrated: "The Messenger of Allāh ﷺ cursed the one who bribes and the one who takes a bribe for a judgement." (***Ḥasan***)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Amr, 'Āishah, Ibn Ḥadīdah, and Umm Salamah.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan* [*Ṣaḥīḥ*]

١٣٣٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ عُمَرَ بْنِ أَبِي سَلَمَةَ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: لَعَنَ رَسُولُ اللهِ ﷺ الرَّاشِيَ وَالمُرْتَشِيَ في الحُكْمِ.

[قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو، وعَائِشَةَ، وابْنِ حَدِيدَةَ وأُمِّ سَلَمَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ

حَدِيثٌ حَسَنٌ [صَحِيحٌ] وَقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو [عَنِ النَّبِيِّ ﷺ].

وَرُوِيَ عَنْ أَبِي سَلَمَةَ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ، وَلَا يَصِحُّ. قَالَ: وَسَمِعْتُ عَبْدَ اللهِ بْنَ عَبْدِ الرَّحْمٰنِ يَقُولُ: حَدِيثُ أَبِي سَلَمَةَ عَنْ عَبْدِاللهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ، أَحْسَنُ شَيْءٍ فِي هٰذَا الْبَابِ وَأَصَحُّ.

Ḥadīth. This *Ḥadīth* was reported from Abū Salamah bin 'Abdur-Raḥmān, from 'Abdullāh bin 'Amr [from the Prophet ﷺ].

It has also been reported from Abū Salamah from the Prophet ﷺ but that is not authentic. He said: I heard 'Abdullāh bin 'Abdur-Raḥmān saying: "The *Ḥadīth* of Abū Salamah from 'Abdullāh bin 'Amr, from the Prophet ﷺ is the best thing on this topic and the most correct."

تخريج: **[إسناده حسن]** وأخرجه أحمد: ٢/ ٣٨٧، ٣٨٨ من حديث أبي عوانة به وصححه ابن حبان، ح: ١١٩٦ والحاكم: ٤/ ١٠٣ وللحديث شواهد كثيرة عند أبي داود وغيره، انظر الحديث الآتي * وفي الباب عن عبدالله بن عمرو [يأتي: ١٣٣٧] وعائشة [أبو يعلى: ٨/ ٧٤، ح: ٤٦٠١ وص: ٣٦٠، ح: ٤٩٤٧] وابن حديدة [لم أجده] وأم سلمة [الطبراني: ٢٣/ ٣٩٨، ح: ٩٥١].

١٣٣٧ - حَدَّثَنَا أَبُو مُوسَى مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا أَبُو عَامِرٍ الْعَقَدِيُّ: حَدَّثَنَا ابْنُ أَبِي ذِئْبٍ عَنْ [خَالِهِ] الْحَارِثِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي سَلَمَةَ، عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو، قَالَ: لَعَنَ رَسُولُ اللهِ ﷺ الرَّاشِي وَالْمُرْتَشِي.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

1337. 'Abdullāh bin 'Amr narrated: "The Messenger of Allāh ﷺ cursed the one who bribes and the one who takes a bribe." **(*Ḥasan*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: **[إسناده حسن]** وأخرجه أبو داود، القضاء، باب: في كراهية الرشوة، ح: ٣٥٨٠ وابن ماجه، ح: ٢٣١٣ من حديث محمد بن عبدالرحمن بن أبي ذئب به وصححه ابن الجارود، ح: ٥٨٦ والحاكم: ٤/ ١٠٢، ١٠٣ ووافقه الذهبي.

Comments:

'Ar-Rāshī' and *'Al-Murtashī'* both the words are derived from root *'Rāshā'* which means the cord or rope by means of which water is drawn from the well. *'Rā'ish'* is that person who becomes a link or go-between among those who take and give a bribe for making wrong and dishonest decisions.

Chapter 10. What Has Been Related About Accepting The Gift And Accepting The Invitation

(المعجم ١٠) - بَابُ مَا جَاءَ فِي قَبُولِ الْهَدِيَّةِ وَإِجَابَةِ الدَّعْوَةِ (التحفة ١٠)

1338. Anas bin Mālik narrated that the Messenger of Allāh ﷺ said: "If trotter (lacking meat) were given to me I would accept, and if I was invited to (a meal of) it I would accept." (*Sahīh*)

[He said:] There are narrations on this topic from 'Alī, 'Āishah, Al-Mughirah bin Shu'bah, Salmān, Mu'āwiyah bin Haidah, and 'Abdur-Rahmān bin 'Alqamah.

[Abū 'Eīsā said:] The *Hadīth* of Anas is a *Hasan Sahīh Hadīth*.

١٣٣٨ - حَدَّثَنَا [أَبُو بَكْرٍ] مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ بَزِيعٍ: حَدَّثَنَا بِشْرُ بْنُ الْمُفَضَّلِ: حَدَّثَنَا سَعِيدٌ عَنْ قَتَادَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَوْ أُهْدِيَ إِلَيَّ كُرَاعٌ لَقَبِلْتُ، وَلَوْ دُعِيتُ عَلَيْهِ لأَجَبْتُ».

[قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وَعَائِشَةَ والْمُغِيرَةِ بْنِ شُعْبَةَ وَسَلْمَانَ ومُعَاوِيَةَ بْنِ حَيْدَةَ وَعَبْدِ الرَّحْمٰنِ بْنِ عَلْقَمَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه ابن حبان (موارد): ١٠٦٥ من حديث سعيد بن أبي عروبة به وللحديث شواهد عند البخاري، ح:٢٥٦٨، ٥١٧٨ وغيره * وفي الباب عن علي [أبو داود، ح:٤٠٤٣] وعائشة [البخاري، ح:٢٥٧٤] والمغيرة بن شعبة [لم أجده] وسلمان [أحمد:٥/٤٣٧] ومعاوية بن حيدة [تقدم:٦٥٦] وعبدالرحمن بن علقمة [النسائي، ح:٣٧٨٩].

Comments:

A gift or present is that thing which is given to someone as a token of love. Mutual love and relations develop by exchange of gifts. For the development of understanding, good relations, and love, various ways and means have been suggested in Islam. Inviting friends, relatives and people to visit you and entertaining them with food etc., is also one way to develop good relations.

Chapter 11.What Has Been Related About The Severe Threat For One Who Is Awarded A Judgement For Something That Is Not His To Take

(المعجم ١١) - بَابُ مَا جَاءَ فِي التَّشْدِيدِ عَلَى مَنْ يُقْضَى لَهُ بِشَيْءٍ لَيْسَ لَهُ أَنْ يَأْخُذَهُ (التحفة ١١)

1339. Umm Salamah narrated that the Messenger of Allāh ﷺ said: "Indeed you come to me with your disputes, and I am only a human being; perhaps one of you is more

١٣٣٩ - حَدَّثَنَا هَارُونُ بْنُ إِسْحَاقَ الْهَمْدَانِيُّ: حَدَّثَنَا عَبْدَةُ بْنُ سُلَيْمَانَ عَنْ هِشَامِ ابْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ زَيْنَبَ بِنْتِ أَبِي

eloquent at presenting his argument than the other. If I judge for one of you, giving him something from the rights of his brother, then it is only a piece of the Fire that I am giving him, so do not take anything from it." (*Sahīh*)

[He said:] There are narrations on this topic from Abū Hurairah and 'Āishah.

[Abū 'Eīsā said:] The *Hadīth* of Umm Salamah is a *Hasan Sahīh Hadīth*.

سَلَمَةَ، عَنْ أُمِّ سَلَمَةَ، قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّكُمْ تَخْتَصِمُونَ إِلَيَّ، وَإِنَّمَا أَنَا بَشَرٌ، وَلَعَلَّ بَعْضَكُمْ أَنْ يَكُونَ أَلْحَنَ بِحُجَّتِهِ مِنْ بَعْضٍ، فَإِنْ قَضَيْتُ لِأَحَدٍ مِنْكُمْ بِشَيْءٍ مِنْ حَقِّ أَخِيهِ، فَإِنَّمَا أَقْطَعُ لَهُ [قِطْعَةً] مِنَ النَّارِ، فَلَا يَأْخُذْ مِنْهُ شَيْئًا».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وَعَائِشَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أُمِّ سَلَمَةَ، حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الشهادات، باب من أقام البينة بعد اليمين، ح:٢٦٨٠ ومسلم، ح:١٧١٣ من حديث هشام بن عروة به * وفي الباب عن أبي هريرة [ابن ماجه، ح:٢٣١٨] وعائشة [لعله يشير إلى حديث البخاري، ح:٢٠٥٣، ٧١٨٢ ومسلم، ح:١٤٥٧].

Comments:

The Prophet ﷺ said; I am only a human being and know nothing about those events of the future, and things which are not yet present, without Allāh's help and guidance. I judge the case presented before me like an ordinary judge on the basis of arguments presented. Maybe one of you is more eloquent and better in presenting the arguments than the other. Under the impression of his eloquence and better presentation of argument, I may give the verdict in his favor, which is actually not his right, and should have not been given in his favor. Such verdicts of mine will not make the things lawful for him in whose favor it has been given.

Chapter 12. What Has Been Related About 'The Proof Is Required From The Claimant And The Oath Is Required From The One The Claim Is Against'

(المعجم ١٢) - بَابُ مَا جَاءَ فِي أَنَّ الْبَيِّنَةَ عَلَى الْمُدَّعِي وَالْيَمِينَ عَلَى الْمُدَّعَى عَلَيْهِ (التحفة ١٢)

1340. 'Alqamah bin Wā'il [bin Hujr] narrated from his father who said: "A man from Hadramawt and a man from Kindah came to the Prophet ﷺ. The Hadramī said: 'O Messenger of Allāh! This person

١٣٤٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو الْأَحْوَصِ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ عَلْقَمَةَ ابْنِ وَائِلٍ [بْنِ حُجْرٍ]، عَنْ أَبِيهِ، قَالَ: جَاءَ رَجُلٌ مِنْ حَضْرَمَوْتَ وَرَجُلٌ مِنْ كِنْدَةَ إِلَى

took some land of mine.' The Kindī said: 'It is my land, It is in my possession, and he has no right to it.' So the Prophet ﷺ said to the Ḥaḍramī: 'Do you have proof?' He said: 'No.' He said: 'Then you will have the oath.' He said: 'O Messenger of Allāh! This man is a liar, it makes not difference what he takes an oath for, he is not ashamed of doing anything!' He said: 'There is nothing you deserve from him except that.' He said: So the man was left to take an oath for it, and in the meantime, the Messenger of Allāh ﷺ said: 'If he takes an oath [for your property] to wrongfully consume it, He will meet Allāh while He is angry with him." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Umar, Ibn 'Abbās, 'Abdullāh bin 'Amr, and Al-Asha'th bin Qais.

[Abū 'Eīsā said:] The *Ḥadīth* of Wā'il bin Ḥujr is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

النَّبِيِّ ﷺ. فَقَالَ الحَضْرَمِيُّ: يَا رَسُولَ اللهِ! إِنَّ هٰذَا غَلَبَنِي عَلَى أَرْضٍ لِي. فَقَالَ الْكِنْدِيُّ: هِيَ أَرْضِي وَفِي يَدِي لَيْسَ لَهُ فِيهَا حَقٌّ. فَقَالَ النَّبِيُّ ﷺ لِلْحَضْرَمِيِّ: «أَلَكَ بَيِّنَةٌ»؟ قَالَ: لَا، قَالَ: «فَلَكَ يَمِينُهُ» قَالَ: يَا رَسُولَ اللهِ! إِنَّ الرَّجُلَ فَاجِرٌ لَا يُبَالِي عَلَى مَا حَلَفَ عَلَيْهِ، وَلَيْسَ يَتَوَرَّعُ مِنْ شَيْءٍ. قَالَ: «لَيْسَ لَكَ مِنْهُ إِلَّا ذٰلِكَ».

قَالَ: فَانْطَلَقَ الرَّجُلُ لِيَحْلِفَ لَهُ. فَقَالَ رَسُولُ اللهِ ﷺ لَمَّا أَدْبَرَ: «لَئِنْ حَلَفَ عَلَى [مَالِكَ] لِيَأْكُلَهُ ظُلْمًا، لَيَلْقَيَنَّ اللهَ وَهُوَ عَنْهُ مُعْرِضٌ»

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ وَابْنِ عَبَّاسٍ وَعَبْدِ اللهِ بْنِ عَمْرٍو وَالأَشْعَثِ بْنِ قَيْسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ وَائِلِ بْنِ حُجْرٍ. حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الإيمان، باب وعيد من اقتطع حق مسلم بيمين فاجرة بالنار، ح:١٣٩ عن قتيبة به * وفي الباب عن عمر [الدارقطني: ٤/٢١٨، ح:٤٤٦٤ وسنده ضعيف جدًا] وابن عباس [يأتي:١٣٤٢] وعبدالله بن عمرو [يأتي:١٣٤١] والأشعث بن قيس [تقدم:١٢٦٩ ويأتي:٢٩٩٦، مختصرًا].

Comments:

If someone files a lawsuit against another person in the court, even though the plaintiff may be a trustworthy, pious and honourable in the society, the judge cannot give his judgement in his favor on the presumption of his piety and trustworthiness. Islamic Law requires that every claimant should bring witnesses in his favor. If the claimant is unable to produce witnesses before the judge, he can ask the respondent to swear an oath and if the respondent takes an oath, then the case will be decided according to his oath.

1341. 'Amr bin Shu'aib narrated from his father, from his grandfather, that during a *Khuṭbah*, the Prophet ﷺ said: "The proof is due from the claimant, and the oath is due from the one the claim is made against." (***Ṣaḥīḥ***)

There is some criticism in the chain of this *Ḥadīth*, Muḥammad bin 'Ubaidullāh Al-'Arzamī was graded weak in *Ḥadīth* due to his memory – he was considered weak by Ibn Al-Mubārak and others.

١٣٤١ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ وَغَيْرُهُ عَنْ مُحَمَّدِ بْنِ عُبَيْدِ اللهِ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ قَالَ فِي خُطْبَتِهِ: «الْبَيِّنَةُ عَلَى الْمُدَّعِي، وَالْيَمِينُ عَلَى الْمُدَّعَى عَلَيْهِ».

هٰذَا حَدِيثٌ فِي إِسْنَادِهِ مَقَالٌ وَمُحَمَّدُ بْنُ عُبَيْدِ اللهِ الْعَرْزَمِيُّ يُضَعَّفُ فِي الْحَدِيثِ مِنْ قِبَلِ حِفْظِهِ. ضَعَّفَهُ ابْنُ الْمُبَارَكِ وَغَيْرُهُ.

تخريج: **[صحيح]** محمد بن عبيدالله العرزمي، تابعه ابن جريج في رواية الزنجي عند البيهقي: ٨/ ١٢٣ وللحديث شواهد كثيرة عند مسلم، ح: ١٧١١ والبيهقي: ١٠/ ٢٥٢ وغيرهما.

1342. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ judged that the oath is due from the one the claim is made against. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others: The proof is due from the claimant, and the oath is due from the one the claim is made against.

١٣٤٢ - حَدَّثَنَا مُحَمَّدُ بْنُ سَهْلِ بْنِ عَسْكَرٍ الْبَغْدَادِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ: حَدَّثَنَا نَافِعُ بْنُ عُمَرَ الْجُمَحِيُّ عَنْ عَبْدِ اللهِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ رَسُولَ اللهِ ﷺ قَضَى أَنَّ الْيَمِينَ عَلَى الْمُدَّعَى عَلَيْهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ أَنَّ الْبَيِّنَةَ عَلَى الْمُدَّعِي وَالْيَمِينَ عَلَى الْمدَّعَى عَلَيْه.

تخريج: متفق عليه، وأخرجه البخاري، الرهن في الحضر، باب: إذا اختلف الراهن والمرتهن ونحوه فالبينة على المدعي واليمين على المدعى عليه، ح: ٢٥١٤ ومسلم، ح: ١٧١١ من حديث نافع بن عمر به.

Comments:

If someone lodges a lawsuit in the court, he has to produce witnesses in his favor, and the respondent needs not produce any witness against the claimant, swearing an oath will be enough for him.

Chapter 13. What Has Been Related About The Oath Along With A Witness

(المعجم ١٣) - بَابُ مَا جَاءَ فِي الْيَمِينِ مَعَ الشَّاهِدِ (التحفة ١٣)

1343. Abū Hurairah narrated: "The Messenger of Allāh ﷺ passed judgement based on an oath along with one witness." Rabi'ah (one of the narrators) said: "A son of Ibn Sa'd bin 'Ubādah informed me saying: 'We found in a book of Sa'd that the Prophet ﷺ passed judgement based on an oath along with a witness.'" (***Sahīh***)

He said: There are narrations on this topic from 'Alī, Jābir, Ibn 'Abbās, and Surraq.

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah, that the Prophet ﷺ passed judgement based on an oath along with a witness, is a *Hasan Gharīb Hadīth*.

١٣٤٣ - حَدَّثَنَا يَعْقُوبُ بْنُ إِبْرَاهِيمَ الدَّوْرَقِيُّ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ قَالَ: حَدَّثَنِي رَبِيعَةُ بْنُ أَبِي عَبْدِ الرَّحْمٰنِ عَنْ سُهَيْلِ ابْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَضَى رَسُولُ اللهِ ﷺ بِالْيَمِينِ مَعَ الشَّاهِدِ الْوَاحِدِ قَالَ رَبِيعَةُ: وَأَخْبَرَنِي ابْنٌ لِسَعْدِ بْنِ عُبَادَةَ قَالَ: وَجَدْنَا فِي كِتَابِ سَعْدٍ أَنَّ النَّبِيَّ ﷺ قَضَى بِالْيَمِينِ مَعَ الشَّاهِدِ قَالَ: وَفِي الْبَابِ عَنْ عَلِيٍّ وَجَابِرٍ وَابْنِ عَبَّاسٍ وَسُرَّقَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ أَنَّ النَّبِيَّ ﷺ قَضَى بِالْيَمِينِ مَعَ الشَّاهِدِ، حَدِيثٌ حَسَنٌ غَرِيبٌ.

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الأحكام، باب القضاء بالشاهد واليمين، ح:٢٣٦٨ عن يعقوب بن إبراهيم به وصححه ابن الجارود، ح:١٠٠٧ * وفي الباب عن علي [يأتي:١٣٤٥] وجابر [يأتي:١٣٤٤] وابن عباس [مسلم، ح:١٧١٢] وسرق [ابن ماجه، ح:٢٣٧١].

1344. Jābir narrated: "The Prophet ﷺ passed judgement based on an oath along with a witness." (***Sahīh***)

١٣٤٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ وَمُحَمَّدُ ابْنُ أَبَانَ قَالَا: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ، عَنْ جَابِرٍ أَنَّ النَّبِيَّ ﷺ قَضَى بِالْيَمِينِ مَعَ الشَّاهِدِ.

تخريج: [إسناده صحيح] وهو على شرط مسلم وأخرجه ابن ماجه، الأحكام، باب القضاء بالشاهد واليمين، ح:٢٣٦٩ عن محمد بن بشار به.

1345. Ja'far bin Muhammad narrated from his father: "The Prophet ﷺ passed judgement

١٣٤٥ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ: حَدَّثَنَا جَعْفَرُ بْنُ مُحَمَّدٍ

based on an oath along with one witness." He said: "And 'Alī judged between you based on it." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This is more correct. This is how Sufyān Ath-Thawrī reported it from Ja'far bin Muḥammad, from his father, from the Prophet ﷺ, in *Mursal* form. 'Abdul-'Azīz bin Abī Salamah and Yaḥya bin Sulaim reported this *Ḥadīth* from Ja'far bin Muḥammad, from his father, from 'Alī, from the Prophet ﷺ.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They held the view that an oath along with one witness was acceptable in cases of rights and wealth. This is the view of Mālik bin Anas, Ash-Shāfi'ī, Aḥmad, and Isḥāq. They said that a judgement is not passed based upon an oath and one witness except in cases of rights and property. Some of the people of knowledge among the people of Al-Kūfah and others did not hold the view that a judgement could be based upon an oath along with one witness.

عَنْ أَبِيهِ: أَنَّ النَّبِيَّ ﷺ قَضَى بالْيَمِينِ مَعَ الشَّاهِدِ الْوَاحِدِ قَالَ: وَقَضَى بِهَا عَلِيٌّ فِيكُمْ.

[قَالَ أَبُو عِيسَى:] وَهٰذَا أَصَحُّ. وَهٰكَذَا رَوَى سُفْيَانُ الثَّوْرِيُّ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ مُرْسَلًا. وروَى عَبْدُ العَزِيزِ بْنُ أَبِي سَلَمَةَ ويَحْيَى بْنُ سُلَيْمٍ هٰذَا الحَدِيثَ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ، عَنْ عَلِيٍّ عَنِ النَّبِيِّ ﷺ. وَالْعَمَلُ على هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ رَأَوْا أَنَّ اليَمِينَ مَعَ الشَّاهِدِ الْوَاحِدِ جَائِزَةٌ فِي الْحُقُوق والأَمْوَالِ. وَهُوَ قَوْلُ مَالِكِ بْنِ أَنَسٍ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ. وقَالُوا: لَا يُقْضَى بِالْيَمِينِ مَعَ الشَّاهِدِ الوَاحِدِ إِلَّا فِي الحُقُوقِ وَالأَمْوَالِ وَلَمْ يَرَ بَعْضُ أَهْلِ العِلْمِ مِنْ أَهْلِ الكُوفَةِ وَغَيْرِهِمْ أَنْ يُقْضَى باليَمِينِ مَعَ الشَّاهِدِ الوَاحِدِ.

تخريج: [صحيح] انظر الحديث السابق * حديث عبدالعزيز بن أبي سلمة، أخرجه الدارقطني: ٤/ ٢١٢، ٢١٣، ح: ٤٤٤١.

Comments:

If the claimant has only one witness, then in the light of the *Ṣaḥīḥ* narration, the claimant will take an oath in place of the second witness. Imām Mālik, Imām Ash-Shāfi'ī, Imām Aḥmad, Imām Isḥāq and most of the scholars have the same view. One witness and an oath is only for monetary disputes, and for all other types of disputes two witnesses are required. (*Muslim* and *Nawawī*. v. 2. p. 74.).

Chapter 14. What Has Been Related About A Slave Owned By Two Men And One Of Them Frees His Portion Of Him

(المعجم ١٤) - بَابُ مَا جَاءَ فِي الْعَبْدِ يَكُونُ بَيْنَ رَجُلَيْنِ فَيُعْتِقُ أَحَدُهُمَا نَصِيبَهُ (التحفة ١٤)

1346. Ibn 'Umar narrated that the Prophet ﷺ said: "Whoever frees a portion" or, he said: "a part" or he said: "a share he owns of a slave, then he can afford the remainder of the price according to the reasonable price, then he will be free. Otherwise he has freed as much as he has freed (only)." Ayyūb (one of the narrators) said: "Perhaps Nāfi' said in this *Hadīth*: 'Meaning he has freed as much of him as he has freed.'" (***Sahīh***)

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Umar is a *Hasan Sahīh Hadīth*. Sālim has reported similarly from his father, from the Prophet ﷺ.

١٣٤٦ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ أَعْتَقَ نَصِيبًا، أَوْ قَالَ: شَقِيصًا، أَوْ قَالَ: شِرْكًا لَهُ فِي عَبْدٍ، فَكَانَ لَهُ مِنَ المَالِ مَا يَبْلُغُ ثَمَنَهُ بِقِيمَةِ الْعَدْلِ، فَهُوَ عَتِيقٌ، وإِلَّا فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ». قَالَ أَيُّوبُ: ورُبَّمَا قَالَ نَافِعٌ فِي هٰذَا الْحَدِيثِ، يَعْنِي فَقَدْ عَتَقَ مِنْهُ مَا عَتَقَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رَوَاهُ سَالِمٌ عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ [نَحْوَهُ].

تخريج: متفق عليه، ومسلم، الأيمان، باب من أعتق شركًا له في عبد، ح:١٥٠١، ٤٩، بعد، ح:١٦٦٧ من حديث إسماعيل ابن علية والبخاري، ح:٢٤٩١ من حديث أيوب السختياني به.

1347. Sālim narrated from his father that the Prophet ﷺ said: "Whoever frees a portion of a slave he owns, then he can afford the remainder of the price, then he should free him with his wealth." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is [*Hasan*] *Sahīh*.

١٣٤٧ - حَدَّثَنَا بِذٰلِكَ الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ، عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ أَعْتَقَ نَصِيبًا لَهُ فِي عَبْدٍ، فَكَانَ لَهُ مِنَ المَالِ مَا يَبْلُغُ ثَمَنَهُ، فَهُوَ عَتِيقٌ مِنْ مَالِهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ.

تخريج: وأخرجه مسلم، ح:١٥٠١/٥١ بعد، ح:١٦٦٧ من حديث عبدالرزاق به وانظر الحديث السابق.

1348. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever frees a portion" or he said: "a part of a slave, then he should finish paying his price if he can afford it. If he can not afford to pay reasonable price then he should be allowed to work to earn the amount that will free him without overburdening him."

[He said:] There is something on this topic from 'Abdullāh bin 'Amr.

(Another chain) with similar, and he said: "a part." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

This was reported by Abān bin Yazīd from Qatādah similar to the narration of Sa'eed bin Abī 'Arūbah (a narrator in the chain of this *Ḥadīth*). Shu'bah reported this *Ḥadīth* from Qatādah, but he did not mention the matter of working in it.

The people of knowledge differed over the issue of working. Some of them held the view that he could work to earn in this case, this is the view of Sufyān Ath-Thawrī, the people of Al-Kūfah, and it is the view of Isḥāq.

Some of the people of knowledge said: When the slave is owned by two men, and one of them frees his portion of him, then he should pay off the portion of his brother and free the slave if he can afford it. If he can not afford it, then the slave will be free only as much as he freed him, and he is not permitted to work (for the remainder). They

١٣٤٨ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنِ النَّضْرِ بْنِ أَنَسٍ، عَنْ بَشِيرِ بْنِ نَهِيكٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ أَعْتَقَ نَصِيبًا، أَوْ قَالَ: شَقِيصًا فِي مَمْلُوكٍ، فَخَلَاصُهُ فِي مَالِهِ إِنْ كَانَ لَهُ مَالٌ، فَإِنْ لَمْ يَكُنْ لَهُ مَالٌ، قُوِّمَ قِيمَةَ عَدْلٍ ثُمَّ يُسْتَسْعَى فِي نَصِيبِ الَّذِي لَمْ يُعْتَقْ، غَيْرَ مَشْقُوقٍ عَلَيْهِ» [قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، نَحْوَهُ.

وَقَالَ: «شَقِيصًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَهٰكَذَا رَوَى أَبَانُ بْنُ يَزِيدَ عَنْ قَتَادَةَ مِثْلَ رِوَايَةِ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، وَرَوَى شُعْبَةُ هٰذَا الحَدِيثَ عَنْ قَتَادَةَ وَلَمْ يَذْكُرْ فِيهِ أَمْرَ السِّعَايَةِ، واخْتَلَفَ أَهْلُ الْعِلْمِ فِي السِّعَايَةِ فَرَأَى بَعْضُ أَهْلِ الْعِلْمِ السِّعَايَةَ فِي هٰذَا وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وأَهْلِ الكُوفَةِ وبِهِ يَقُولُ إِسْحَاقُ. وَقَدْ قَالَ بَعْضُ أَهْلِ الْعِلْمِ: إِذَا كَانَ الْعَبْدُ بَيْنَ رَجُلَيْنِ، فَأَعْتَقَ أَحَدُهُمَا نَصِيبَهُ، فَإِنْ كَانَ لَهُ مَالٌ: غَرِمَ نَصِيبَ أَخِيهِ وعَتَقَ الْعَبْد مِنْ مالِهِ وإِنْ لَمْ يَكُنْ لَهُ مَالٌ عَتَقَ مِنَ العَبْدِ مَا عَتَقَ، وَلَا يُسْتَسْعَى. وَقَالُوا بِمَا رُوِيَ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ. وَهٰذَا قَوْلُ أَهْلِ المَدِينَةِ. وَبِهِ يَقُولُ مَالِكُ بْنُ أَنَسٍ

held the view according to what is reported by Ibn 'Umar from the Prophet ﷺ, and this is the saying of the people of Al-Madīnah, and it is the view of Mālik bin Anas, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

والشَّافِعِيُّ وَأَحْمَدُ وَإِسْحَاقُ.

تخريج: متفق عليه، وأخرجه مسلم، العتق، باب من أعتق شركًا له في عبد، ح:١٥٠٣ عن علي بن خشرم والبخاري، ح:٢٥٢٧ من حديث سعيد بن أبي عروبة به * وفي الباب عن عبدالله ابن عمرو [ابن عدي في الكامل: ٣/ ٩٦٤].

Chapter 15. What Has Been Related About A Lifelong Gift (*Al-'Umrā*)

(المعجم ١٥) - بَابُ مَا جَاءَ فِي الْعُمْرَى (التحفة ١٥)

1349. Samurah narrated that the Prophet ﷺ said: "The lifelong gift is permitted for its inhabitant" or: "is an inheritance for its inhabitant." (***Sahīh***)

[He said:] There are narrations on this topic from Zaid bin Thābit, Jābir, Abū Hurairah, 'Āishah, Ibn Az-Zubair, and Mu'āwiyah.

١٣٤٩ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ أَنَّ نَبِيَّ اللهِ ﷺ قَالَ: «الْعُمْرَى جَائِزَةٌ لِأَهْلِهَا، أَوْ مِيرَاثٌ لِأَهْلِهَا».

[قَالَ] وَفِي الْبَابِ عَنْ زَيْدِ بْنِ ثَابِتٍ وجَابِرٍ، وأَبِي هُرَيْرَةَ وعَائِشَةَ وابْنِ الزُّبَيْرِ وَمُعَاوِيَةَ.

تخريج: [صحيح] وأخرجه أحمد:٥/ ٨ من حديث سعيد بن أبي عروبة، وأبو داود، ح:٣٥٤٩ من حديث قتادة به وللحديث شواهد كثيرة جدًا * وفي الباب عن زيد بن ثابت [النسائي، ح:٣٧٤٥-٣٧٥٤ وابن حبان، ح:١١٤٩، ١١٥٠] وجابر [يأتي:١٣٥٠] وأبي هريرة [البخاري، ح:٢٦٢٦ ومسلم، ح:١٦٢٦] وعائشة [لم أجده] وابن الزبير [جامع المسانيد والسنن لابن كثير:٧/ ٥٢٠، ح:٥٤٨٤ وعزاه للطبراني] ومعاوية [أحمد:٤/ ٩٧، ٩٩].

Comments:

'Al-Umrā' means a gift given for a lifelong period. This word is derived from *'Umr*. This is a particular way of giving a gift. For example, saying, I give you this house to reside in during my entire life. This is lawful and approved by most of the scholars.

1350. Jābir narrated that the Prophet ﷺ said: "Whichever man is given a lifelong gift for himself and his offspring, then it belongs to the one whom it was given, it does not return to the one who gave it, for he has given a gift which shall

١٣٥٠ - حَدَّثَنَا الأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ أَنَّ النَّبِيَّ ﷺ قَالَ: «أَيُّمَا رَجُلٍ أُعْمِرَ عُمْرَى لَهُ وَلِعَقِبِهِ،

be included in the inheritance." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Ṣaḥīḥ*. This is how it was reported from Ma'mar and others from Az-Zuhrī, similar to the narration of Mālik (a narrator in the chain of this *Ḥadīth*). Some of them reported it from Az-Zuhrī, without mentioning "and his offspring" in it.

[And this *Ḥadīth* has been reported through more than one route from Jābir from the Prophet ﷺ who said: "The lifelong gift is permitted for its inhabitant." And it does not contain: "and his offspring." This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.]

This is acted upon according to some of the people of knowledge. They said that when he says: "It is for you as long as you live, and for your offspring." Then it is his for life, it does not return to the first person. When he does not say: "For your offspring" then it returns to the first person when the one to whom it was given to dies. This is the view of Mālik bin Anas and Ash-Shāfi'ī.

It has been reported through more than one route that the Prophet ﷺ said: "The lifelong gift is permitted for its inhabitant" and this is acted upon according to some of the people of knowledge, in that they said: "When the one it was given to dies, then it is an inheritance of his, even if it was not allotted for his offspring." This is the view of Sufyān Ath-Thawrī, Aḥmad, and Isḥāq.

فَإِنَّهَا لِلَّذِي يُعْطَاهَا، لَا تَرْجِعُ إِلَى الَّذِي أَعْطَاهَا، لأَنَّهُ أَعْطَى عَطَاءً وَقَعَتْ فِيهِ الْمَوَارِيثُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ. وهٰكَذَا رَوَى مَعْمَرٌ وغَيْرُ وَاحِدٍ عَنِ الزُّهْرِيِّ، مِثْلَ رِوَايَةِ مَالِكٍ. وَرَوَى بَعْضُهُمْ عَنِ الزُّهْرِيِّ، وَلَمْ يَذْكُرْ فِيهِ: «وَلِعَقِبِهِ».

[ورُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ، عَنْ جابِرٍ عَنِ النَّبِيِّ ﷺ قَالَ: «الْعُمْرَى جائِزَةٌ لأَهْلِهَا» وَلَيْسَ فِيهَا: «لِعَقِبِهِ» وَهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ]. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. قَالُوا: إِذَا قَالَ: هِيَ لَكَ، حَيَاتَكَ وَلِعَقِبِكَ، فَإِنَّهَا لِمَنْ أُعْمِرَهَا، لَا تَرْجِعُ إِلَى الأَوَّلِ. وإِذَا لَمْ يَقُلْ: لِعَقِبِكَ. فَهِيَ رَاجِعَةٌ إِلَى الأَوَّلِ إِذا مَاتَ الْمُعْمَرُ. وهُوَ قَوْلُ مَالِكِ بْنِ أَنَسٍ والشَّافِعِيِّ. ورُوِيَ مِنْ غَيْرِ وَجْهٍ عَنِ النَّبِيِّ ﷺ قَالَ: «الْعُمْرَى جَائِزَةٌ لأَهْلِهَا» والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ قَالُوا: إِذَا مَاتَ الْمُعْمَرُ فَهِيَ لِوَرَثَتِهِ، وإِنْ لَمْ تُجْعَلْ لِعَقِبِهِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وأَحْمَدَ وإِسْحَاقَ.

تخريج: وأخرجه مسلم، الهبات، باب العمرى، ح:١٦٢٥ من حديث مالك به وهو في الموطأ:٢/٧٥٦ ورواه البخاري، ح:٢٦٢٥ من حديث أبي سلمة بن عبدالرحمن به مختصرًا.

Comments:

As it involves an element of waiting for another person's death, for this reason it has been called *'Ruqbā'*. According to 'Allāmah Alī Qarī, in view of Imām Abū Ḥanīfah and Imām Muḥammad, *Ruqba* is not approved. (*Tuḥfat Al-Aḥwadhī,* v. 2. p.284.) According to 'Allāmah Ibn Ḥajar most of the scholars deem *Ruqbā* and *'Umrā* to be the same. In view of Imām Abū Ḥanīfah, Imām Malik, and Imām Muḥammad and Imām Abū Yūsuf, *Ruqbā* is not lawful. (*Fatḥ Al-Bārī* v. 5. p.295.)

Chapter 16. What Has Been Related About *Ar-Ruqbā*[1]

(المعجم ١٦) - بَابُ مَا جَاءَ فِي الرُّقْبَى (التحفة ١٦)

1351. Jābir narrated that the Messenger of Allāh ﷺ said: "The lifelong gift is permitted for its inhabitant, and the *Ruqbā* is permitted for its inhabitant." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*. Some of them reported it from Abū Az-Zubair [with this chain] from Jābir in *Mawqūf* form [not *Marfū'*].

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. (They say) *Ar-Ruqbā* is permitted just like the lifelong gift is permitted. This is the view of Aḥmad and Isḥāq. Some of the people of knowledge among the people of Al-Kufah distinguished between the lifelong gift and *Ar-Ruqbā*; they allowed the lifelong gift but they did not allow *Ar-Ruqbā*.

[Abū 'Eīsā said:] The explanation

١٣٥١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ عَنْ دَاوُدَ بْنِ أَبِي هِنْدٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْعُمْرَى جَائِزَةٌ لِأَهْلِهَا، والرُّقْبَى جَائِزَةٌ لِأَهْلِهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ. وقَدْ رَوَاهُ بَعْضُهُمْ عَنْ أَبِي الزُّبَيْرِ [بِهٰذَا الإِسْنَادِ]، عَنْ جَابِرٍ مَوْقُوفًا. [وَلَمْ يَرْفَعْهُ] والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ أَنَّ الرُّقْبَى جَائِزَةٌ مِثْلَ الْعُمْرَى وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ. وَفَرَّقَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَهْلِ الْكُوفَةِ وغَيْرِهِمْ بَيْنَ الْعُمْرَى وَالرُّقْبَى، فَأَجَازُوا الْعُمْرَى وَلَمْ يُجِيزُوا الرُّقْبَى.

[قَالَ أَبُو عِيسَى:] وَتَفْسِيرُ الرُّقْبَى أَنْ يَقُولَ: هٰذَا الشَّيْءُ لَكَ مَا عِشْتَ، فَإِنْ مُتَّ

[1] A donation with the provision that it will either belong to the one it was donated when the donor dies, or it will revert to the donor when the one it was donated to dies.

of *Ar-Ruqbā* is when someone says: "This thing is yours as long as you live, if you die before me then it returns to me." Aḥmad and Isḥāq said: "*Ar-Ruqbā* is the same as the lifelong gift. It belongs to the one it was given, and it does not revert to the first person."

قَبْلِي فَهِيَ رَاجِعَةٌ إِلَيَّ. وقَالَ أَحْمَدُ وإِسْحَاقُ: الرُّقْبَى مِثْلُ العُمْرَى. وهِيَ لِمَنْ أُعْطِيَهَا، وَلَا تَرْجِعُ إِلَى الأَوَّلِ.

تخريج: [صحيح] وأخرجه أبو داود، البيوع، باب: في الرقبى، ح:٣٥٥٨ وابن ماجه، ح:٢٣٨٣ من حديث هشيم به وصرح أبوالزبير بالسماع، في الرواية الطويلة وللحديث شواهد.

Chapter 17. What Has Been Related From The Messenger Of Allāh ﷺ About Reconciliation

(المعجم ١٧) - بَابُ مَا ذُكِرَ عَنْ رَسُولِ اللهِ ﷺ فِي الصُّلْحِ بَيْنَ النَّاسِ (التحفة ١٧)

1352. Kathīr bin 'Amr bin 'Awf Al-Muzanī narrated from his father, from his grandfather, that the Messenger of Allāh ﷺ said: "Reconcilation is allowed among the Muslims, except for reconcilation that makes the lawful unlawful, or the unlawful lawful. And the Muslims will be held to their conditions, except the conditions that make the lawful unlawful, or the unlawful lawful." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣٥٢ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا أَبُو عَامِرٍ الْعَقَدِيُّ: حَدَّثَنَا كَثِيرُ بْنُ عَبْدِ اللهِ بْنِ عَمْرِو بْنِ عَوْفٍ المُزَنِيُّ عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «الصُّلْحُ جَائِزٌ بَيْنَ المُسْلِمِينَ، إِلَّا صُلْحًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا، وَالمُسْلِمُونَ عَلَى شُرُوطِهِمْ، إِلَّا شَرْطًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه ابن ماجه، الأحكام، باب الصلح، ح:٢٣٥٣ من حديث كثير العوفي به وسنده ضعيف جدًا ولكن له شواهد عند أبي داود، ح:٣٥٩٤ وغيره فالحديث بها صحيح.

Comments:

This narration has been discussed for its narrator, Kathir bin 'Abdullāh is regarded as a weak narrator and his narration cannot be accurate and acceptable, but the theme of this narration is correct.

Chapter 18. What Has Been Related About A Man Placing A Beam On His Neighbor's Enclosure Wall

(المعجم ١٨) - بَابُ مَا جَاءَ فِي الرَّجُلِ يَضَعُ عَلَى حَائِطِ جَارِهِ خَشَبًا (التحفة ١٨)

1353. Al-A'raj narrated from Abū Hurairah, saying: "I heard him saying: 'the Messenger of Allāh ﷺ said: "When one of you seeks his neighbor's permission to affix a wooden beam in his wall, then do not prevent him."' When Abū Hurairah narrated it, they tilted their heads, so he said: 'Why do I see that you are averse to it? By Allāh! I will continue to narrate it among you.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Abbās and Mujammi' bin Jāriyah.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge. It is the view of Ash-Shāfi'ī. It has been related from some of the people of knowledge; among them Mālik bin Anas, that they said: "He can prevent his neighbor from affixing a beam in his wall." But the first view is more correct.

١٣٥٣ - حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ [الْمَخْزُومِيُّ]: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: سَمِعْتُهُ يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا اسْتَأْذَنَ أَحَدَكُمْ جَارُهُ أَنْ يَغْرِزَ خَشَبَةً فِي جِدَارِهِ، فَلَا يَمْنَعْهُ».

فَلَمَّا حَدَّثَ أَبُو هُرَيْرَةَ، طَأْطَأُوا رُؤُوسَهُمْ، فَقَالَ: مَالِي أَرَاكُمْ عَنْهَا مُعْرِضِينَ؟ وَاللهِ لَأَرْمِيَنَّ بِهَا بَيْنَ أَكْتَافِكُمْ. [قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وَمُجَمِّعِ بْنِ جَارِيَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَبِهِ يَقُولُ الشَّافِعِيُّ. وَرُوِيَ [عَنْ] بَعْضِ أَهْلِ الْعِلْمِ مِنْهُمْ مَالِكُ بْنُ أَنَسٍ، قَالُوا: لَهُ أَنْ يَمْنَعَ جَارَهُ أَنْ يَضَعَ خَشَبَةً فِي جِدَارِهِ. وَالْقَوْلُ الْأَوَّلُ أَصَحُّ.

تخريج: متفق عليه، أخرجه البخاري، المظالم. باب: لا يمنع جار جاره أن يغرز خشبةً في جداره، ح:٢٤٦٣، ٢٤٦٧ ومسلم، ح:١٦٠٩ من حديث الزهري به ورواه أبو داود، ح:٣٦٣٤ وغيره من حديث سفيان بن عيينة به ❋ وفي الباب عن ابن عباس [ابن ماجه، ح:٢٣٣٧] ومجمع ابن جارية [ابن ماجه، ح:٢٣٣٦].

Comments:

Islam is a religion of peace and a great supporter of the wellbeing of the society. It preaches love and peace among the community members. Its basis are on mutual help, service and care for each other. For this reason it has been advised to allow neighbors to affix a wooden beam on your wall, provided it does not cause much damage.

Chapter 19. What Has Been Related About: The Oath Is Based Upon What Will Make His Companion Believe Him

(المعجم ١٩) - بَابُ مَا جَاءَ أَنَّ الْيَمِينَ عَلَى مَا يُصَدِّقُهُ صَاحِبُهُ (التحفة ١٩)

1354. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The oath is based upon what will make your companion believe you." (*Ṣaḥīḥ*)

[Qutaibah (one of the narrators) said: "What will make you believed by your companion."]

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. We do not know of it except as a narration of Hushaim from 'Abdullāh bin Abī Ṣāliḥ. 'Abdullāh bin Abī Ṣāliḥ is the brother of Suhail bin Abī Ṣāliḥ.

This is acted upon according to some of the people of knowledge, and it is the view of Aḥmad and Isḥāq.

It has been reported that Ibrāhīm An-Nakha'ī said: "When the one the oath is sought from is in the wrong, then the intention is the intention of the one giving the oath. When the one the oath is sought from is being wronged, then the intention is the intention of the one who caused the oath to be sought."

١٣٥٤ - حَدَّثَنَا قُتَيْبَةُ وَأَحْمَدُ بْنُ مَنِيعٍ - المَعْنَى وَاحِدٌ - قَالَا: حَدَّثَنَا هُشَيْمٌ عَنْ عَبْدِ اللهِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ، قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْيَمِينُ عَلَى مَا يُصَدِّقُكَ بِهِ صَاحِبُكَ». [وَقَالَ قُتَيْبَةُ: عَلَىٰ مَا صَدَّقَكَ عَلَيْهِ صَاحِبُكَ].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ هُشَيْمٍ عَنْ عَبْدِ اللهِ بْنِ أَبِي صَالِحٍ. وعَبْدُاللهِ بْنُ أَبِي صَالِحٍ هُوَ أَخُو سُهَيْلِ بْنِ أَبِي صَالِحٍ والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَبِهِ يَقُولُ أَحْمَدُ وَإِسْحَاقُ. وَرُوِيَ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ أَنَّهُ قَالَ: إِذَا كَانَ الْمُسْتَحْلِفُ ظَالِمًا، فَالنِّيَّةُ نِيَّةُ الحَالِفِ. وَإِذَا كَانَ الْمُسْتَحْلِفُ مَظْلُومًا، فالنِّيَّةُ نِيَّةُ الَّذِي اسْتَحْلَفَ.

تخريج: وأخرجه مسلم، الأيمان، باب اليمين على نية المستحلف، ح:١٦٥٣ من حديث هشيم به.

Chapter 20. What Has Been Related About The Road: When There Is A Disagreement About It, How Should It Be Made?

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي الطَّرِيقِ إِذَا اخْتُلِفَ فِيهِ، كَمْ يُجْعَلُ؟ (التحفة ٢٠)

1355. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Make the road seven forearm lengths." (*Ṣaḥīḥ*)

١٣٥٥ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنِ الْمُثَنَّى بْنِ سَعِيدٍ الضُّبَعِيِّ، عَنْ قَتَادَةَ، عَنْ بَشِيرِ بْنِ نَهِيكٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «اجْعَلُوا الطَّرِيقَ سَبْعَةَ أَذْرُعٍ».

تخريج: [صحيح] وأخرجه ابن ماجه، الأحكام، باب: إذا تشاجروا في قدر الطريق، ح:٢٣٣٨ من حديث وكيع، وأبو داود، ح:٣٦٣٣ من حديث المثنى بن سعيد به وصححه ابن الجارود، ح:١٠١٨ ورواه مسلم، ح:١٦١٣ من حديث أبي هريرة، بلفظ "إذا اختلفتم في الطريق، جعل عرضه سبع أذرع" ورواه البخاري، ح:٢٤٧٣ من حديث أبي هريرة به.

1356. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "When you disagree over the road, then make it seven forearm lengths." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This is more correct than the narration of Waki' (a narrator in no. 1355). [He said:] There is something on this topic from Ibn 'Abbās.

[Abū 'Eīsā said:] The *Ḥadīth* of Bashīr bin Ka'b [Al-'Adawī] from Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Some of them reported this from Qatādah, from Bashīr bin Nahīk, from Abū Hurairah, but it is not preserved.

١٣٥٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا الْمُثَنَّى بْنُ سَعِيدٍ عَنْ قَتَادَةَ، عَنْ بُشَيْرِ بْنِ كَعْبٍ الْعَدَوِيِّ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا تَشَاجَرْتُمْ فِي الطَّرِيقِ فَاجْعَلُوهُ سَبْعَةَ أَذْرُعٍ».

[قَالَ أَبُو عِيسَى:] وَهٰـذَا أَصَحُّ مِنْ حَدِيثِ وَكِيعٍ. [قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ بُشَيْرِ بْنِ كَعْبٍ [الْعَدَوِيِّ] عَنْ أَبِي هُرَيْرَةَ، حَدِيثٌ حَسَنٌ صَحِيحٌ. وَرَوَى بَعْضُهُمْ [هٰذَا] عَنْ قَتَادَةَ، عَنْ بَشِيرِ بْنِ نَهِيكٍ، عَنْ أَبِي هُرَيْرَةَ. وَهُوَ غَيْرُ مَحْفُوظٍ.

تخريج: [صحيح] انظر الحديث السابق * وفي الباب عن ابن عباس [ابن ماجه، ح:٢٣٣٩، ٢٣٤١ مختصرًا وأحمد:١/ ٢٣٥، ٢٥٥، ٣٠٢، ٣١٣، ٣١٧.

Comments:

A common street having residential buildings on both sides should be broad enough according to the needs of its residents. A street which is not open for heavy traffic, and there is only limited local use of the way, and the land of the lane is disputed, and there is more than one claimant the land, in this

situation - seven forearms of land should be spared for the common use of the residents. In otherwords, the lane should be at least seven forearms broad. This width can be more or less with mutual approval of the residents. (*Tuhfat Al-Ahwadhī* v. 2. p. 285-286.)

Chapter 21. What Has Been Related About The Boy Choosing Between His Parents When They Separate

(المعجم ٢١) - بَابُ مَا جَاءَ فِي تَخْيِيرِ الْغُلَامِ بَيْنَ أَبَوَيْهِ إِذَا افْتَرَقَا (التحفة ٢١)

1357. Abū Maimūnah narrated from Abū Hurairah who said: "The Prophet ﷺ gave a boy the choice between his father and his mother." (***Sahīh***)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Amr, and the grandfather of 'Abdul-Hamīd bin Ja'far.

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Hadīth*. Abū Maimūnah's name is Sulaim.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They said: The boy chooses between his parents when there is a disagreement between them over the custody of the child. This is the view of Ahmad and Ishāq. They said that if the boy is very young then the mother has more right, and when the boy reaches seven years old then he is given the choice between his parents.

Hilāl bin Abī Maimūnah (one of the narrartors) is Hilāl bin 'Alī bin Usāmah, of Al-Madīnah, Yahya bin Abī Kathīr, Mālik bin Anas and Fulaih bin Sulaimān reported from him.

١٣٥٧ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ زِيَادِ بْنِ سَعْدٍ، عَنْ هِلَالِ بْنِ أَبِي مَيْمُونَةَ الثَّعْلَبِيِّ، عَنْ أَبِي مَيْمُونَةَ، عَنْ أَبِي هُرَيْرَةَ، أَنَّ النَّبِيَّ ﷺ خَيَّرَ غُلَامًا بَيْنَ أَبِيهِ وَأُمِّهِ. [قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو، وجَدِّ عَبْدِ الْحَمِيدِ بْنِ جَعْفَرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو مَيْمُونَةَ اسْمُهُ سُلَيْمٌ وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. قَالُوا: يُخَيَّرُ الْغُلَامُ بَيْنَ أَبَوَيْهِ إِذَا وَقَعَتْ بَيْنَهُمَا الْمُنَازَعَةُ فِي الْوَلَدِ. وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ. وَقَالَا: مَا كَانَ الْوَلَدُ صَغِيرًا فَالأُمُّ أَحَقُّ. فَإِذَا بَلَغَ الْغُلَامُ سَبْعَ سِنِينَ خُيِّرَ بَيْنَ أَبَوَيْهِ. هِلَالُ ابْنُ أَبِي مَيْمُونَةَ هُوَ هِلَالُ بْنُ عَلِيِّ بْنِ أُسَامَةَ، وَهُوَ مَدَنِيٌّ. وَقَدْ رَوَى عَنْهُ يَحْيَى بْنُ أَبِي كَثِيرٍ، وَمَالِكُ بْنُ أَنَسٍ، وفُلَيْحُ بْنُ سُلَيْمَانَ.

تخريج: [صحيح] وأخرجه ابن ماجه، الأحكام، باب تخيير الصبي بين أبويه، ح:٢٣٥١ من حديث سفيان بن عيينة، وأبو داود، ح:٢٢٧٧ من حديث زياد بن سعد به * وفي الباب عن عبدالله ابن عمرو [أبو داود، ح:٢٢٧٦] وجد عبدالحميد بن جعفر [أبو داود، ح:٢٢٤٤].

Comments:

According to this narration a child of separated parents will live with the mother until the age of seven, or when he learns to eat and put on clothes by himself. After the age of seven, the child is given a choice to live with the mother or the father.

Chapter 22. What Has Been Related About The Father Can Take From The Wealth Of His Son

(المعجم ٢٢) - بَابُ مَا جَاءَ أَنَّ الْوَالِدَ يَأْخُذُ مِنْ مَالِ وَلَدِهِ (التحفة ٢٢)

1358. 'Āishah narrated that the Messenger of Allāh ﷺ said: "Indeed the most wholesome of what you consume is from your earnings, and indeed your children are from your earnings." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, and 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*]. Some of them have reported this from 'Umārah bin 'Umair, from his mother, from 'Āishah. Most of them said: "from his paternal aunt, from 'Āishah.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They said that the father's hand is free to take from the wealth of his son as he likes.

Some of them said that he is not to take from his son's wealth except when there is a need for it.

١٣٥٨ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَحْيَى بْنُ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ: حَدَّثَنَا الأَعْمَشُ عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ عَمَّتِهِ، عَنْ عَائِشَةَ، قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَطْيَبَ مَا أَكَلْتُمْ مِنْ كَسْبِكُمْ، وإِنَّ أَوْلَادَكُمْ مِنْ كَسْبِكُمْ». [قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وعَبْدِ اللهِ بْنِ عَمْرٍو. [قَالَ أَبُو عِيسَى]: هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ]. وَقَدْ رَوَى بَعْضُهُمْ هٰذَا عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ أُمِّهِ، عَنْ عَائِشَةَ وَأَكْثَرُهُمْ قَالُوا: عَنْ عَمَّتِهِ، عَنْ عَائِشَةَ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ. قَالُوا: إِنَّ يَدَ الْوَالِدِ مَبْسُوطَةٌ فِي مَالِ وَلَدِهِ يَأْخُذُ مَا شَاءَ.

وَقَالَ بَعْضُهُمْ: لَا يَأْخُذُ مِنْ مَالِهِ إِلَّا عِنْدَ الْحَاجَةِ إِلَيْهِ.

تخريج: [صحيح] وأخرجه ابن ماجه، التجارات، باب ما للرجل من مال ولده، ح:٢٢٩٠ من حديث يحيى بن زكريا به وصححه الذهبي وهو مخرج في نيل المقصود، ح:٣٥٢٨ ومسند

الحميدي، ح:٢٤٧ (بتحقيقي) * وفي الباب عن جابر [ابن ماجه، ح:٢٢٩١] وعبدالله بن عمرو [ابن ماجه، ح:٢٢٩٢].

Chapter 23. What Has Been Related About When One's Property Has Been Broken, What Is the Judgement For Him From The Property Of The One Who Broke It?

(المعجم ٢٣) - بَابُ مَا جَاءَ فِيمَنْ يُكْسَرُ لَهُ الشَّيْءُ، مَا يُحْكَمُ لَهُ مِنْ مَالِ الْكَاسِرِ (التحفة ٢٣)

1359. Anas narrated: "One of the wives of the Prophet ﷺ gave the Prophet ﷺ some food in a bowl. Then 'Āishah broke the bowl with her hand, and discarded what was in it. So the Prophet ﷺ said: "Food for food and vessel for vessel." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣٥٩ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ الْحَفَرِيُّ عَنْ سُفْيَانَ [الثَّوْرِيِّ]، عَنْ حُمَيْدٍ، عَنْ أَنَسٍ قَالَ: أَهْدَتْ بَعْضُ أَزْوَاجِ النَّبِيِّ ﷺ إِلَى النَّبِيِّ ﷺ طَعَامًا فِي قَصْعَةٍ، فَضَرَبَتْ عَائِشَةُ الْقَصْعَةَ بِيَدِها، فَأَلْقَتْ مَا فِيها، فَقَالَ النَّبِيُّ ﷺ: «طَعَامٌ بِطَعَامٍ، وَإِنَاءٌ بِإِنَاءٍ».

[قَالَ أَبُو عِيسَى:] هٰـذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] ورواه البخاري، المظالم، باب: إذا كسر قصعة أو شيئًا لغيره، ح:٢٤٨١، ٥٢٢٥ من حديث حميد الطويل به.

Comments:

This narration proves that if someone breaks or deliberately damages the things of others, he must return the same kind of things, buying it new from the market, or paying them the price of those things.

1360. Anas narrated that the Messenger of Allāh ﷺ borrowed a bowl which broke, so he guaranteed (compensated) it for them. (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is not preserved. Suwaid (one of the narrators) only meant to narrate – according to me – the narration reported by Ath-Thawrī (no. 1359). And the narration of Ath-Thawrī is more correct. The name of Abū Dāwūd (one of the narrators of no. 1359) is 'Umar bin Sa'd.

١٣٦٠ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا سُوَيْدُ بْنُ عَبْدِ الْعَزِيزِ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ: أَنَّ النَّبِيَّ ﷺ اسْتَعَارَ قَصْعَةً فَضَاعَتْ فَضَمِنَها لَهُمْ.

[قَالَ أَبُو عِيسَى:] وَهٰذَا حَدِيثٌ غَيْرُ مَحْفُوظٍ. وَإِنَّمَا أَرَادَ - عِنْدِي - سُوَيْدٌ الْحَدِيثَ الَّذِي رَوَاهُ الثَّوْرِيُّ. وَحَدِيثُ الثَّوْرِيِّ أَصَحُّ. اسْمُ أَبِي دَاوُدَ عُمَرُ بْنُ سَعْدٍ.

تخريج: [إسناده ضعيف] سويد بن عبدالعزيز ضعيف (تقريب: ٢٦٩٢) والحديث السابق يغني عنه.

Comments:

This narration is not preserved, but the preceding narration proves that if a thing is purposely and deliberately damaged, it must be returned or compensated for, in the form of a new thing of the same kind or with the market price. Similarly, if a borrowed thing is damaged or destroyed, the lender should be compensated. If the owner does not want to be compensated it is up to him.

Chapter 24. What Has Been Related About The Limits Of Responsibility For A Man And Woman

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي حَدِّ بُلُوغِ الرَّجُلِ وَالْمَرْأَةِ (التحفة ٢٤)

1361. Nāfi' narrated that Ibn 'Umar said: "I was reviewed before the Messenger of Allāh ﷺ in the army, and I was fourteen years old, but he did not accept me. Then I was reviewed before him in the army later while I was fifteen years old, and he accepted me." Nāfi' said: "I narrated this *Hadīth* to 'Umar bin 'Abdul-'Azīz and he said: 'This is the limit that distiguishes between childhood and adulthood.' Then he wrote to give salaries to whoever reached fifteen years old."

(Another chain) from Nāfi', from Ibn 'Umar from the Prophet ﷺ, and it is similar, but he did not mention in it that 'Umar bin 'Abdul-'Azīz wrote that this is the limit that distinguishes between youth and childhood and adulthood. In his narration, Ibn 'Uyainah said (that Nāfi' said): "I narrated it to 'Umar bin 'Abdul-'Azīz and he said: 'This is the limit that distinguishes between children and soldiers.'" (*Sahīh*)

١٣٦١ - حَدَّثَنَا مُحَمَّدُ بْنُ وَزِيرٍ الْوَاسِطِيُّ: حَدَّثَنَا إِسْحَاقُ بْنُ يُوسُفَ الأَزْرَقُ عَنْ سُفْيَانَ، عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، قَالَ: عُرِضْتُ عَلَى رَسُولِ اللهِ ﷺ فِي جَيْشٍ وَأَنَا ابْنُ أَرْبَعَ عَشْرَةَ فَلَمْ يَقْبَلْنِي، فَعُرِضْتُ عَلَيْهِ مِنْ قَابِلٍ فِي جَيْشٍ وَأَنَا ابْنُ خَمْسَ عَشْرَةَ فَقَبِلَنِي. قَالَ نَافِعٌ: وَحَدَّثْتُ بِهٰذَا الْحَدِيثِ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ فَقَالَ: هٰذَا حَدُّ مَا بَيْنَ الصَّغِيرِ وَالْكَبِيرِ، ثُمَّ كَتَبَ أَنْ يُفْرَضَ لِمَنْ بَلَغَ الْخَمْسَ عَشْرَةَ.

حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ، نَحْوَهُ وَلَمْ يَذْكُرْ فِيهِ أَنَّ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ كَتَبَ أَنَّ هٰذَا حَدُّ مَا بَيْنَ الصَّغِيرِ وَالْكَبِيرِ. وَذَكَرَ ابْنُ عُيَيْنَةَ فِي حَدِيثِهِ قَالَ: حَدَّثْتُ بِهِ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ. فَقَالَ: هٰذَا حَدُّ مَا بَيْنَ الذُّرِّيَّةِ وَالْمُقَاتِلَةِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، وَبِهِ يَقُولُ [سُفْيَانُ] الثَّوْرِيُّ وابْنُ الْمُبَارَكِ والشَّافِعِيُّ وأَحْمَدُ وَإِسْحَاقُ. يَرَوْنَ أَنَّ الْغُلَامَ إِذَا اسْتَكْمَلَ خَمْسَ عَشْرَةَ [سَنَةً]، فَحُكْمُهُ حُكْمُ الرِّجَالِ. وإِنِ احْتَلَمَ قَبْلَ خَمْسَ عَشْرَةَ فَحُكْمُهُ حُكْمُ الرِّجَالِ. وَقَالَ أَحْمَدُ وَإِسْحَاقُ، الْبُلُوغُ ثَلَاثَةُ مَنَازِلَ: بُلُوغُ خَمْسَ عَشْرَةَ، أَوِ الاحْتِلَامُ، فَإِنْ لَمْ يُعْرَفْ سِنُّهُ وَلَا احْتِلَامُهُ فالإِنْبَاتُ - يَعْنِي الْعَانَةَ -.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge, and it is the view of [Sufyān] Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, Aḥmad and Isḥāq. They held the view that when a boy reaches fifteen years of age then he is judged as a man is judged. If he were to have a wet dream before fifteen years then he would be judged as a man is judged. Aḥmad and Isḥāq said that there are three marks for responsibility: Reaching fifteen years of age or having a wet dream, when his age and his having wet dream cannot be ascertained, then *Inbāt* — that is — growing of pubic hairs.

تخريج: متفق عليه، وأخرجه البخاري، المغازي، باب غزوة الخندق وهي الأحزاب، ح:٤٠٩٧ ومسلم، ح:١٨٦٨ من حديث عبيد الله بن عمر به.

Comments:

In view of the scholars, the age of puberty is fifteen years for both male and female. The other criterion of maturity or age of puberty is the start of the wet dream for boys and menstruating for girls. All *A'immah* agree on this point. This narration appears again, see no. 1711. There the author added that it is *Gharib*, that is the first version he cited here.

(المعجم ٢٥) - بَابٌ: فِيمَنْ تَزَوَّجَ امْرَأَةَ أَبِيهِ (التحفة ٢٥)

Chapter 25. What Has Been Related About A Man Who Married A Woman His Father Was Married To (Previously)

١٣٦٢ - حَدَّثَنَا أَبُو سَعِيدٍ الأَشَجُّ: حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ عَنْ أَشْعَثَ، عَنْ عَدِيِّ بْنِ ثَابِتٍ، عَنِ الْبَرَاءِ قَالَ: مَرَّ بِي خَالِي أَبُو بُرْدَةَ ابْنُ نِيَارٍ وَمَعَهُ لِوَاءٌ فَقُلْتُ: أَيْنَ تُرِيدُ؟ فَقَالَ: بَعَثَنِي رَسُولُ اللهِ ﷺ إِلَى رَجُلٍ تَزَوَّجَ امْرَأَةَ أَبِيهِ، أَنْ آتِيَهُ بِرَأْسِهِ. [قَالَ:] وَفِي الْبَابِ عَنْ

1362. Al-Barā' narrated: "My maternal uncle Abū Burdah Ibn Niyār passed by me and he had a flag with him. I said: 'Where are you going?' He said: 'the Messenger of Allāh ﷺ dispatched me to a man who married a woman his father had been married to: that I should bring him his head.'" (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Qurrah [Al-Muzanī].

[Abū 'Eīsā said:] The *Hadīth* of Al-Barā' is a *Hasan Gharīb Hadīth*. Muhammad bin Ishāq reported this *Hadīth* from 'Adī bin Thābit, from 'Abdullāh bin Yazīd, from Al-Barā'. This *Hadīth* has also been reported from Ash'ath, from 'Adī, from Yazīd bin Al-Barā', from his father. And it has been reported from Ash'ath, from 'Adī, from Yazīd bin Al-Barā', from his maternal uncle, from the Prophet ﷺ.

قُرَّةَ [الْمُزَنِيِّ].

[قَالَ أَبُو عِيسَى:] حَدِيثُ الْبَرَاءِ حَدِيثٌ حَسَنٌ غَرِيبٌ، وَقَدْ رَوَى مُحَمَّدُ بْنُ إِسْحَاقَ هٰذَا الْحَدِيثَ عَنْ عَدِيِّ بْنِ ثَابِتٍ، عَنْ عَبْدِ اللهِ بْنِ يَزِيدَ، عَنِ الْبَرَاءِ. وَقَدْ رُوِيَ هذَا الْحَدِيثُ عَنْ أَشْعَثَ، عَنْ عَدِيٍّ، عَنْ يَزِيدَ ابْنِ الْبَرَاءِ، عَنْ أَبِيهِ. وَرُوِيَ عَنْ أَشْعَثَ، عَنْ عَدِيٍّ، عَنْ يَزِيدَ بْنِ الْبَرَاءِ، عَنْ خَالِهِ عَنِ النَّبِيِّ ﷺ.

تخريج: [صحيح] وأخرجه ابن ماجه، الحدود، باب من تزوج امرأة أبيه من بعده، ح:٢٦٠٧ من حديث حفص بن غياث، وأبو داود، ح:٤٤٥٧ من حديث عدي بن ثابت به وصححه ابن الجارود، ح:٦٨١ وابن حبان، ح:١٥١٦ والحاكم على شرط مسلم:٢/ ١٩١ ووافقه الذهبي وفي الباب عن قرة المزني (ابن ماجه:٢٦٠٨).

Comments:

If someone goes against definite and decisive orders, for which the *Sharī'ah* awards capital punishment, and a judge, *Imām* or head of the state has the right to award him the death sentence. There is difference of opinion on the punishment of an offender who marries the wife of his father, which is strictly prohibited in Islamic law. In the view of Imām Mālik and Imām Shāfi'ī, *Hadd* will be imposed, but in view of Imām Ahmad and Ishāq, his punishment is death and confiscation of his property.

Chapter 26. What Has Been Related About The Case Of Two Men And One Of Them Lives Downstream From The Other

(المعجم ٢٦) - بَابُ مَا جَاءَ فِي الرَّجُلَيْنِ يَكُونُ أَحَدُهُمَا أَسْفَلَ مِنَ الآخَرِ فِي الْمَاءِ (التحفة ٢٦)

1363. 'Abdullāh bin Az-Zubair narrated: "A man from the *Ansār* disputed with Az-Zubair before the Messenger of Allāh ﷺ about the canals of Harrah which they used to irrigate the date-palms. The *Ansārī* said: 'Let the water pass.' But he refused. So they brought

١٣٦٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، أَنَّهُ حَدَّثَهُ، أَنَّ عَبْدَ اللهِ بْنَ الزُّبَيْرِ حَدَّثَهُ أَنَّ رَجُلًا مِنَ الأَنْصَارِ خَاصَمَ الزُّبَيْرَ عِنْدَ رَسُولِ اللهِ ﷺ فِي شِرَاجِ الْحَرَّةِ الَّتِي يَسْقُونَ بِهَا النَّخْلَ. فَقَالَ

الأَنْصَارِيُّ. سَرِّحِ الْمَاءَ يَمُرُّ، فَأَبَى عَلَيْهِ، فَاخْتَصَمُوا عِنْدَ رَسُولِ اللهِ ﷺ. فَقَالَ رَسُولُ اللهِ ﷺ لِلزُّبَيْرِ: «اسْقِ يَا زُبَيْرُ! ثُمَّ أَرْسِلِ الْمَاءَ إِلَى جَارِكَ» فَغَضِبَ الأَنْصَارِيُّ: فَقَالَ: [يَا رَسُولَ اللهِ] أَنْ كَانَ ابْنَ عَمَّتِكَ؟ فَتَلَوَّنَ وَجْهُ رَسُولِ اللهِ ﷺ ثُمَّ قَالَ: «يَا زُبَيْرُ! اسْقِ ثُمَّ احْبِسِ الْمَاءَ حَتَّى يَرْجِعَ إِلَى الْجَدْرِ» فَقَالَ الزُّبَيْرُ: وَاللهِ! إِنِّي لَأَحْسِبُ نَزَلَتْ هَذِهِ الآيَةُ فِي ذَلِكَ. ﴿فَلَا وَرَبِّكَ لَا يُؤْمِنُونَ حَتَّىٰ يُحَكِّمُوكَ فِيمَا شَجَرَ بَيْنَهُمْ ثُمَّ لَا يَجِدُوا فِىٓ أَنفُسِهِمْ حَرَجًا مِّمَّا قَضَيْتَ وَيُسَلِّمُوا تَسْلِيمًا﴾ الآية [النساء: ٦٥].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ].

وَرَوَى شُعَيْبُ بْنُ أَبِي حَمْزَةَ عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، عَنِ الزُّبَيْرِ، وَلَمْ يَذْكُرْ فِيهِ عَنْ عَبْدِ اللهِ بْنِ الزُّبَيْرِ. وَرَوَاهُ عَبْدُ اللهِ بْنُ وَهْبٍ عَنِ اللَّيْثِ. وَيُونُسُ عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَبْدِ اللهِ بْنِ الزُّبَيْرِ. نَحْوَ الْحَدِيثِ الأَوَّلِ.

their dispute to the Messenger of Allāh ﷺ. the Messenger of Allāh ﷺ said to Az-Zubair: 'O Zubair! Irrigate (your land) then let the water pass to your neighbor.' The *Anṣārī* became angry and said: '[O Messenger of Allāh!] Is this because he is your aunt's son?' The face of the Messenger of Allāh ﷺ changed color. Then he said: 'O Zubair! Irrigate (your land) and then withold the water until it reaches the walls.' Az-Zubair said: 'By Allāh! I think that this *Āyah* was revealed about that: But no, by your Lord, they can have no Faith until they make you (O Muḥammad) judge in all disputes between them, and find in themselves no resistance against your decisions and accept (them) with full submission.'"[1] (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*].

Shu'bah bin Abī Ḥamzah reported it from Az-Zuhrī, from 'Urwah bin Az-Zubair, from Az-Zubair, and he did not mention "from 'Abdullāh bin Az-Zubair" in it. 'Abdullāh bin Wahb reported it from Al-Laith – and, Yūnus from Az-Zuhrī – from 'Urwah, from 'Abdullāh bin Az-Zubair, (and it is) similar to the first narration.

تخريج: متفق عليه، وأخرجه مسلم، الفضائل، باب وجوب اتباعه ﷺ، ح: ٢٣٥٧ عن قتيبة والبخاري، ح: ٢٣٥٩، ٢٣٦٠ من حديث الليث بن سعد به.

Comments:

This man from *Anṣār* was a Companion who participated in the Battle of Badr. In anger, he was not patient, and uttered those offensive words. No Muslim ever dares to behave in such a way as he did. This event gives a lesson

[1] *An-Nisā'* 4:65.

to all the Muslims, that they must obey the orders of the Prophet ﷺ without any grumbling and muttering from the depth of their heart. This is the true faith and demand of the loyalty to faith.

Chapter 27. What Has Been Related About One Who Frees His Slaves When He Dies, While He Has No Wealth Aside From Them

(المعجم ٢٧) - بَابُ مَا جَاءَ فِيمَنْ يُعْتِقُ مَمَالِيكَهُ عِنْدَ مَوْتِهِ، وَلَيْسَ لَهُ مَالٌ غَيْرُهُمْ (التحفة ٢٧)

1364. 'Imrān bin Ḥuṣain narrated: "A man from the *Anṣār* freed six slaves of his upon his death, and he did not have any wealth aside from them. That was conveyed to the Prophet ﷺ, and he said some harsh words about him." He said: "Then he called for them and he divided them and had them draw lots. So he freed two of them and left four as slaves." (***Ṣaḥīḥ***)

[He said:] There is something on this topic from Abū Hurairah.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Imrān bin Ḥuṣain is a *Ḥasan Ṣaḥīḥ Ḥadīth*, and it has been reported through more than one route from 'Imrān bin Ḥuṣain.

This is acted upon according to some of the people of knowledge [among the Companions of the Prophet ﷺ]. It is the view of Mālik bin Anas, Ash-Shāfi'ī, Aḥmad, and Isḥāq. They held the view that casting of lots could resorted to in this case and others. As for some of the people of knowledge among the people of Al-Kūfah and others, they did not approve of drawing lots. They said: Each one of the slaves should be freed one-third, and they should be allowed to work to earn the price of the other two-thirds.

١٣٦٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي الْمُهَلَّبِ، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ أَنَّ رَجُلًا مِنَ الأَنْصَارِ أَعْتَقَ سِتَّةَ أَعْبُدٍ لَهُ عِنْدَ مَوْتِهِ وَلَمْ يَكُنْ لَهُ مَالٌ غَيْرُهُمْ. فَبَلَغَ ذٰلِكَ النَّبِيَّ ﷺ، فَقَالَ لَهُ قَوْلًا شَدِيدًا. قَالَ: ثُمَّ دَعَاهُمْ فَجَزَّأَهُمْ ثُمَّ أَقْرَعَ بَيْنَهُمْ، فَأَعْتَقَ اثْنَيْنِ وَأَرَقَّ أَرْبَعَةً. [قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عِمْرَانَ بْنِ حُصَيْنٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ [مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ]. وهُوَ قَوْلُ مَالِكِ بْنِ أَنَسٍ والشَّافِعِيِّ وَأَحْمَدَ وإِسْحَاقَ يَرَوْنَ [اسْتِعْمَالَ] الْقُرْعَةِ فِي هٰذَا وفِي غَيْرِهِ. وأَمَّا بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَهْلِ الْكُوفَةِ وغَيْرِهِمْ فَلَمْ يَرَوُا الْقُرْعَةَ. وقَالُوا: يُعْتَقُ مِنْ كُلِّ عَبْدٍ الثُّلُثُ. ويُسْتَسْعَى فِي ثُلُثَيْ قِيمَتِهِ. وأَبُو الْمُهَلَّبِ اسْمُهُ عَبْدُ الرَّحْمٰنِ بْنُ عَمْرٍو [الجَرْمِيّ وَهُوَ غَيْرُ أَبِي قِلَابَة] وَيُقَالُ مُعَاوِيَةُ بْنُ عَمْرٍو [وأَبُو قِلَابَةَ الجَرْمِيّ اسْمُهُ عَبْدُاللهِ بْنُ زَيْدٍ].

Abū Al-Muhallab's name is 'Abdur-Raḥmān bin 'Amr [Al-Jarmī; he is not Abū Qilābah.] And they also say he is Mu'āwiyah bin 'Amr, [and Abū Qilābah Al-Jarmī's name is 'Abdullāh bin Zaid.]

تخريج: وأخرجه مسلم، الأيمان، باب من أعتق شركًا له في عبد، ح:١٦٦٨ عن قتيبة به *
وفي الباب عن أبي هريرة [البيهقي: ١٠/٢٨٦].

Comments:

The *Anṣarī* freed six slaves, whereas according to the *Sharī'ah* he had the right to free only two. Now everyone of the freed slaves desired to have freedom, but only two of them could get it. This was an issue that needed no witnesses for its solution, and nobody was ready to forgo his right, so it was solved by drawing lots, because there was no other choice for the solution of this issue. So in the light of this narration, such cases can be solved by drawing lots.

Chapter 28. What Has Been Related About One Who Owned A *Maḥram* (A Close Relative)

(المعجم ٢٨) - **بَابُ مَا جَاءَ فِيمَنْ مَلَكَ ذَا [رَحِمٍ] مَحْرَمٍ** (التحفة ٢٨)

1365. Samurah narrated that the Messenger of Allāh ﷺ said: "Whoever owns a related *Maḥram*, then he is free." (***Hasan***)

[Abū 'Eīsā said:] We do not know of this narration having a complete chain of narration, except as a narration of Ḥammād bin Salamah.

Some have reported something about this from Qatādah, from Al-Ḥasan, from 'Umar.

(Another chain) from Samurah that the Prophet ﷺ said: "Whoever owns a related *Maḥram*, then he is free."

[Abū 'Eīsā said:] We do not know of anyone who mentioned 'Āṣim Al-Aḥwal from Ḥammād bin Salamah in this narration, except for Muḥammad bin Bakr.

And this is acted upon according

١٣٦٥ - حَدَّثَنَا عَبْدُ اللهِ بْنُ مُعَاوِيَةَ الْجُمَحِيُّ [الْبَصْرِيُّ]: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ فَهُوَ حُرٌّ».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ مُسْنَدًا، إِلَّا مِنْ حَدِيثِ حَمَّادِ بْنِ سَلَمَةَ. وَقَدْ رَوَى بَعْضُهُمْ هٰذَا الْحَدِيثَ عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ عُمَرَ، شَيْئًا مِنْ هٰذَا.

حَدَّثَنَا عُقْبَةُ بْنُ مُكْرَمٍ الْعَمِّيُّ الْبَصْرِيُّ وَغَيْرُ وَاحِدٍ، قَالُوا: حَدَّثَنَا مُحَمَّدُ بْنُ بَكْرٍ الْبُرْسَانِيُّ، عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ قَتَادَةَ. وَعَاصِمٌ الأَحْوَلُ عَنِ الْحَسَنِ، عَنْ سَمُرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ فَهُوَ حُرٌّ».

[**قَالَ أَبُو عِيسَى:**] وَلَا نَعْلَمُ أَحَدًا ذَكَرَ فِي

to some of the people of knowledge. It has also been reported from Ibn 'Umar that the Prophet ﷺ said: "Whoever owns a related *Mahram*, then he is free." Ḍamrah bin Rabī'ah reported it from Sufyān Ath-Thawrī, from 'Abdullāh bin Dīnār, from Ibn 'Umar, from the Prophet ﷺ. But Ḍamrah bin Rabī'ah is not followed up in narrating this *Ḥadīth*.[1] And this *Ḥadīth* is a mistake according to the scholars of *Ḥadīth*.

هٰذَا الْحَدِيثِ عَاصِمًا الأَحْوَلَ عَنْ حَمَّادِ بْنِ سَلَمَةَ، غَيْرَ مُحَمَّدِ بْنِ بَكْرٍ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وقَدْ رُوِيَ عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ مَلَكَ ذَا رَحِمٍ مَحْرَمٍ فَهُوَ حُرٌّ» رَوَاهُ ضَمْرَةُ بْنُ رَبِيعَةَ عَنْ سُفْيَانَ الثَّوْرِيِّ، عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ.

وَلَا يُتَابَعُ ضَمْرَةَ بْنُ رَبِيعَةَ عَلَى هٰذَا الْحَدِيثِ. وَهُوَ حَدِيثٌ خَطَأٌ عِنْدَ أَهْلِ الْحَدِيثِ.

تخريج: [حسن] وأخرجه أبو داود، العتق، باب: فيمن ملك ذا رحم محرم، ح:٣٩٤٩، وابن ماجه، ح:٢٥٢٤ من حديث حماد بن سلمة به وصححه الحاكم:٢/ ٢١٤ والذهبي وابن الجارود، ح:٩٧٣ * حديث عقبة بن مكرم: رواه ابن ماجه، ح:٢٥٢٤ عنه وسنده حسن.

Comments:

Maḥram relatives are those who are prohibited to marry each other when one of them is male and the other is female, as father and son, paternal uncle and paternal nephew, maternal uncle and maternal nephew, etc. The father is prohibited from marrying his daughter, a son cannot marry his mother, a brother cannot marry his sister etc. Most of the people of knowledge among the Companions of the Prophet ﷺ and their followers acted according to this narration. The *Aḥnāf* and *Ḥanābilah* also act upon this narration.

Chapter 29. What Has Been Related About One Who Farms A People's Land Without Their Permission

(المعجم ٢٩) - بَابُ مَا جَاءَ [فِي]لِمَنْ زَرَعَ فِي أَرْضِ قَوْمٍ بِغَيْرِ إِذْنِهِمْ (التحفة ٢٩)

1366. Rāfi' bin Khadīj narrated that the Prophet ﷺ said: "Whoever farms a people's land without their permission, then nothing he farms belongs to him, and its finances are due to him." **(*Ḍa'īf*)**

[Abū 'Eīsā said:] This *Ḥadīth* is

١٣٦٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا شَرِيكُ بْنُ عَبْدِ اللهِ النَّخَعِيُّ عَنْ أَبِي إِسْحَاقَ، عَنْ عَطَاءٍ، عَنْ رَافِعِ بْنِ خَدِيجٍ أَنَّ النَّبِيَّ ﷺ قَالَ: «مَنْ زَرَعَ فِي أَرْضِ قَوْمٍ بِغَيْرِ إِذْنِهِمْ، فَلَيْسَ لَهُ مِنَ الزَّرْعِ شَيْءٌ، ولَهُ نَفَقَتُهُ».

[1] No one else narrates it from Sufyān, which would act as support for Ḍamrah's narration.

Hasan Gharīb, we do not know it as a narration of Abū Isḥāq except from this route; the narration of Sharīk bin 'Abdullāh.

This *Hadīth* is acted upon according to some of the people of knowledge, and it is the view of Aḥmad and Isḥāq.

I asked Muḥammad bin Ismā'īl about this *Hadīth* and he said: "It is a *Hasan Hadīth*." And he said: "I do not know of it as a narration of Abū Isḥāq except from the report of Sharīk." Muḥammad said: "Ma'qil bin Mālik Al-Baṣrī narrated to us: 'Uqbah bin Al-Aṣam narrated to us from 'Aṭā', from Rāfi' bin Khadīj from the Prophet ﷺ, similarly."

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، لَا نَعْرِفُهُ مِنْ حَدِيثِ أَبِي إِسْحَاقَ، إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ شَرِيكِ بْنِ عَبْدِ اللهِ. وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. وَسَأَلْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنْ هٰذَا الْحَدِيثِ فَقَالَ: هُوَ حَدِيثٌ حَسَنٌ. وَقَالَ: لَا أَعْرِفُهُ مِنْ حَدِيثِ أَبِي إِسْحَاقَ إِلَّا مِنْ رِوَايَةِ شَرِيكٍ. قَالَ مُحَمَّدٌ: حَدَّثَنَا مَعْقِلُ بْنُ مَالِكٍ الْبَصْرِيُّ: حَدَّثَنَا عُقْبَةُ بْنُ الْأَصَمِّ عَنْ عَطَاءٍ، عَنْ رَافِعِ ابْنِ خَدِيجٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، البيوع، باب: في زرع الأرض بغير إذن صاحبها، ح:٣٤٠٣ عن قتيبة به ورواه قيس بن الربيع عن أبي إسحاق به، شريك عنعن وقيس ضعيف وأبو إسحاق عنعن وعطاء لم يسمع من رافع (خطابي).

Comments:

This narration proves that if someone cultivates the land without the owner's permission, the produce will belong to the owner of the land and the tiller will get only the expenditure he spent on the cultivation.

Chapter 30. What Has Been Related About Gifts And Equality Between Children

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي النُّحْلِ وَالتَّسْوِيَةِ بَيْنَ الْوَلَدِ (التحفة ٣٠)

1367. An-Nu'mān bin Bashīr narrated that his father gave a slave to a son of his. So he went to the Prophet ﷺ to have him witness it. He ﷺ said: 'Have you given a gift similar to this one to all of your sons?' He replied: 'No.' So he said: 'Then take him back.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*, and it has been

١٣٦٧ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ وَسَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ الْمَخْزُومِيُّ - الْمَعْنَى وَاحِدٌ - قَالَا: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ حُمَيْدِ ابْنِ عَبْدِ الرَّحْمٰنِ وَعَنْ مُحَمَّدِ بْنِ النُّعْمَانِ بْنِ بَشِيرٍ، يُحَدِّثَانِ عَنِ النُّعْمَانِ بْنِ بَشِيرٍ، أَنَّ أَبَاهُ نَحَلَ ابْنًا لَهُ غُلَامًا. فَأَتَى النَّبِيَّ ﷺ يُشْهِدُهُ

فَقَالَ: «أَكُلَّ وَلَدِكَ قَدْ نَحَلْتَهُ، مِثْلَ ما نَحَلْتَ هٰذَا؟» قَالَ: لَا، قَالَ: «فَارْدُدْهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنِ النُّعْمَانِ ابْنِ بَشِيرٍ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، يَسْتَحِبُّونَ التَّسْوِيَةَ بَيْنَ الْوَلَدِ، حَتَّى قَالَ بَعْضُهُمْ: يُسَوِّي بَيْنَ وَلَدِهِ حَتَّى فِي الْقُبْلَةِ. وَقَالَ بَعْضُهُمْ: يُسَوِّي بَيْنَ وَلَدِهِ فِي النُّحْلِ وَالْعَطِيَّةِ [يَعْنِي] الذَّكَرُ والأُنْثَى سَوَاءٌ وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ. وَقَالَ بَعْضُهُمْ: التَّسْوِيَةُ بَيْنَ الوَلَدِ، أَنْ يُعْطَى الذَّكَرُ مِثْلَ حَظِّ الأُنْثَيَيْنِ، مِثْلَ قِسْمَةِ المِيرَاثِ، وَهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ.

reported through more than one route from An-Nu'mān bin Bashīr.

This is acted upon according to some of the people of knowledge. They consider it recommended to maintain equality among sons, to the degree that some of them said he is to treat his sons equally even in kissing. Some of them said he is to treat his sons equally in gifts and presents, [meaning] to treat the males and the females the same. This is the view of Sufyān Ath-Thawrī. Some of them said treating children equally is to give the males a similar portion as that of two females, similar to divisions of inheritance. This is the view of Aḥmad and Isḥāq.

تخريج: متفق عليه، وأخرجه مسلم، الهبات، باب كراهة تفضيل بعض الأولاد في الهبة، ح:١٦٢٣ من حديث سفيان بن عيينة والبخاري، ح:٢٥٨٦ من حديث الزهري به.

Comments:

The subject of this narration proves that if someone wants to give something to his children in his life time, he will have to give an equal share to every one of them without any consideration of gender or standards of legacy distribution. Another narration made this point clear. The Prophet ﷺ said in an authentic narration, "Treat your children equally. If I want to give extra to one of them, I will give to a female." (*Baihaqī*)

Chapter 31. What Has Been Related About Preemption

(المعجم ٣١) - بَابُ مَا جَاءَ فِي الشُّفْعَةِ

(التحفة ٣١)

١٣٦٨ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ ابْنُ عُلَيَّةَ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «جَارُ الدَّارِ أَحَقُّ بِالدَّارِ».

1368. Samurah narrated that the Messenger of Allāh ﷺ said: "The neighbor of a home has more right to the home." (*Ḥasan*)

قَالَ أَبُو عِيسَى: وَفِي الْبَابِ عَنِ الشَّرِيدِ

Abū 'Eīsā said: There are narrations on this topic from Ash-Sharīd, Abū Rāfi', and Anas.

وَأَبِي رَافِعٍ وَأَنَسٍ.

حَدِيثُ سَمُرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَقَدْ رَوَى عِيسَى بْنُ يُونُسَ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ، مِثْلَهُ.

وَرُوِيَ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ عَنِ النَّبِيِّ ﷺ. وَالصَّحِيحُ عِنْدَ أَهْلِ الْعِلْمِ، حَدِيثُ الْحَسَنِ، عَنْ سَمُرَةَ. وَلَا نَعْرِفُ حَدِيثَ قَتَادَةَ عَنْ أَنَسٍ، إِلَّا مِنْ حَدِيثِ عِيسَى بْنِ يُونُسَ. وَحَدِيثُ عَبْدِ اللهِ بْنِ عَبْدِ الرَّحْمٰنِ الطَّائِفِيِّ عَنْ عَمْرِو بْنِ الشَّرِيدِ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ، فِي هٰذَا الْبَابِ هُوَ حَدِيثٌ حَسَنٌ. وَرَوَى إِبْرَاهِيمُ بْنُ مَيْسَرَةَ عَنْ عَمْرِو بْنِ الشَّرِيدِ، عَنْ أَبِي رَافِعٍ عَنِ النَّبِيِّ ﷺ قَالَ: سَمِعْتُ مُحَمَّدًا يَقُولُ كِلَا الْحَدِيثَيْنِ عِنْدِي صَحِيحٌ.

The *Ḥadīth* of Samurah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. 'Eīsā bin Yūnus reported similarly from Sa'eed bin Abī 'Arūbah, from Qatādah, from Anas, from the Prophet ﷺ.

It has also been reported from Sa'eed bin Abī 'Arūbah from Qatādah, from Al-Ḥasan, from Samurah, from the Prophet ﷺ. What is correct according to the people of knowledge is the narration of Al-Ḥasan from Samurah, and we do not know the report of Qatādah from Anas, except as a narration of 'Eīsā bin Yūnus. The *Ḥadīth* of 'Abdullāh bin 'Abdur-Raḥmān Aṭ-Ṭā'ifī from 'Amr bin Ash-Sharīd, from his father, from the Prophet ﷺ – on this topic – is a *Ḥasan Ḥadīth*. Ibrāhīm bin Maisarah reported it from 'Amr bin Ash-Sharīd, from Abū Rāfi', from the Prophet ﷺ.

He said: I heard Muḥammad saying: "Both of the *Aḥādīth* are *Ṣaḥīḥ* to me."

تخريج: [حسن] وأخرجه أحمد: ٥/١٣ عن إسماعيل ابن علية به ورواه أبو داود، ح: ٣٥١٧ من حديث قتادة وصححه ابن الجارود، ح: ٦٤٤ * وفي الباب عن الشريد [ابن ماجه، ح: ٢٤٩٦ وأشار إليه المؤلف] وأبي رافع [البخاري، ح: ٢٢٥٨، ٦٩٧٧، ٦٩٨٠ وأشار إليه المؤلف] وأنس [ابن حبان، ح: ١١٥٣ وأشار إليه الترمذي] * حديث عيسى بن يونس رواه ابن حبان، ح: ١١٥٣.

Comments:

In this narration, it has been made clear, that if a shareholder in a property sells his share without consulting or informing the co-shareholder, then the co-shareholder can buy back the share of property for the same price which it was sold. This is agreed upon; the neighbor looses the right of preemption in the presence of a co-shareholder of the property.

Chapter 32. What Has Been Related About Preemption For The Absent

(المعجم ٣٢) - بَابُ مَا جَاءَ فِي الشُّفْعَةِ لِلْغَائِبِ (التحفة ٣٢)

1369. Jābir narrated that the Messenger of Allāh ﷺ said: "The neighbor has more right to his preemption. He is to be waited for even if he is absent, when their paths are the same." (***Hasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. We do not know of anyone reporting this *Ḥadīth* other than 'Abdul-Mālik bin Abī Sulaimān from 'Aṭā', from Jābir. [Shu'bah criticized 'Abdul-Mālik bin Abī Sulaimān due to this *Ḥadīth*.]

'Abdul-Mālik is trustworthy and honest according to the people of *Ḥadīth*. We do not know of anyone who criticized him except Shu'bah because of this *Ḥadīth*. Wakī' reported this *Ḥadīth* from Shu'bah from 'Abdul-Mālik [bin Abī Sulaimān]. And it has been reported from Ibn Al-Mubārak, from Sufyān Ath-Thawrī who said: "Abdul-Mālik bin Abī Sulaimān is a 'scale.'" Meaning for knowledge.

This *Hadīth* is acted upon according to the people of knowledge. The person has more right to preemption even if he is absent, so when he arrives then the pre-emption is his even if he has gone for a long time.

١٣٦٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا خَالِدُ بْنُ عَبْدِ اللهِ الْوَاسِطِيُّ عَنْ عَبْدِ الْمَلِكِ بْنِ أَبِي سُلَيْمَانَ، عَنْ عَطَاءٍ، عَنْ جَابِرٍ، قَالَ. قَالَ رَسُولُ اللهِ ﷺ: «الْجَارُ أَحَقُّ بِشُفْعَتِهِ، يُنْتَظَرُ بِهِ وَإِنْ كَانَ غَائِبًا، إِذَا كَانَ طَرِيقُهُمَا وَاحِدًا».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، وَلَا نَعْلَمُ أَحَدًا رَوَى هٰذَا الْحَدِيثَ غَيْرَ عَبْدِ الْمَلِكِ بْنِ أَبِي سُلَيْمَانَ، عَنْ عَطَاءٍ، عَنْ جَابِرٍ [وَقَدْ تَكَلَّمَ شُعْبَةُ فِي عَبْدِالْمَلِكِ بْنِ أَبِي سُلَيْمَانَ مِنْ أَجْلِ هٰذَا الْحَدِيثِ].

وَعَبْدُ الْمَلِكِ هُوَ ثِقَةٌ مَأْمُونٌ عِنْدَ أَهْلِ الْحَدِيثِ، لَا نَعْلَمُ أَحَدًا تَكَلَّمَ فِيهِ غَيْرَ شُعْبَةَ، مِنْ أَجْلِ هٰذَا الْحَدِيثِ. وَقَدْ رَوَى وَكِيعٌ عَنْ شُعْبَةَ، عَنْ عَبْدِ الْمَلِكِ [بْنِ أَبِي سُلَيْمَانَ] هٰذَا الْحَدِيثَ. وَرُوِيَ عَنِ ابْنِ الْمُبَارَكِ، عَنْ سُفْيَانَ الثَّوْرِيِّ قَالَ: عَبْدُ الْمَلِكِ بْنُ أَبِي سُلَيْمَانَ مِيزَانٌ. يَعْنِي فِي الْعِلْمِ. وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ، أَنَّ الرَّجُلَ أَحَقُّ بِشُفْعَتِهِ وَإِنْ كَانَ غَائِبًا. فَإِذَا قَدِمَ فَلَهُ الشُّفْعَةُ. وَإِنْ تَطَاوَلَ ذٰلِكَ.

تخريج: [إسناده حسن] وأخرجه أبو داود، البيوع، باب: في الشفعة، ح:٣٥١٨ وابن ماجه، ح:٢٤٩٤ من حديث عبدالملك به.

Comments:

Though 'Abdul-Mālik bin Abī Sulaimān is a reliable and secure narrator, but

this narration from him is deemed to be not preserved and of a lower rank. The neighbor who is not a co-shareholder or does not share the way to the property, according to Islamic Law, has no right of preemption. If someone wants to sell his property, morally he is bound to consult his neighbour, and he should be given priority.

Chapter 33. (What Has Been Related About) When The Boundaries Are Defined And The Areas Are Fixed Then There Is No Preemption

(المعجم ٣٣) - بَابُ [مَا جَاءَ] إِذَا حُدَّتِ الْحُدُودُ وَوَقَعَتِ السِّهَامُ فَلَا شُفْعَةَ (التحفة ٣٣)

1370. Jābir bin 'Abdullāh narrated that the Messenger of Allāh ﷺ said: "When the boundaries are defined and the streets are fixed, then there is no preemption." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, some of them reported it in *Mursal* form from Abū Salamah, from the Prophet ﷺ.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ. Among them was 'Umar bin Al-Khaṭṭāb and 'Uthmān bin 'Affān. It is also the view of some of the *Fuqahā'* among the *Tābi'īn*, like 'Umar bin 'Abdul-'Azīz and others. It is the view of the people of Al-Madīnah, among them Yaḥya bin Sa'eed Al-Anṣārī, Rabī'ah bin Abī 'Abdur-Raḥmān, and Mālik bin Anas. It is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq. They did not hold the view that there could be a preemption, except if there was an association (partnership). And they did not think that the neighbor had the right to preemption when there is no association.

١٣٧٠ - حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ: حَدَّثَنَا عَبْدُالرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا وَقَعَتِ الْحُدُودُ، وَصُرِّفَتِ الطُّرُقُ، فَلَا شُفْعَةَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رَوَاهُ بَعْضُهُمْ مُرْسَلًا، عَنْ أَبِي سَلَمَةَ عَنِ النَّبِيِّ ﷺ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ. مِنْهُمْ عُمَرُ بْنُ الْخَطَّابِ وَعُثْمَانُ بْنُ عَفَّانَ. وبِهِ يَقُولُ بَعْضُ فُقَهَاءِ التَّابِعِينَ. مِثْلُ عُمَرَ بْنِ عَبْدِ الْعَزِيزِ وَغَيْرِهِ. وَهُوَ قَوْلُ أَهْلِ الْمَدِينَةِ. مِنْهُمْ يَحْيَى بْنُ سَعِيدٍ الأَنْصَارِيُّ وَرَبِيعَةُ بْنُ أَبِي عَبْدِ الرَّحْمٰنِ وَمَالِكُ بْنُ أَنَسٍ. وَبِهِ يَقُولُ الشَّافِعِيُّ وأَحْمَدُ وإِسْحَاقُ. لَا يَرَوْنَ الشُّفْعَةَ إِلَّا لِلْخَلِيطِ، وَلَا يَرَوْنَ لِلْجَارِ شُفْعَةً إِذَا لَمْ يَكُنْ خَلِيطًا.

وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ: الشُّفْعَةُ لِلْجَارِ، واحْتَجُّوا

Some of the people of knowledge among the Companions of the Prophet ﷺ and others said that preemption is for the neighbour, and they argued using the *Marfū' Ḥadīth* of the Prophet ﷺ: "The neighbour of a home has more right to the home" and his saying: "The neighbor has more right because of his nearness." This is the view of Ath-Thawrī, Ibn Al-Mubārak and the people of Al-Kūfah.

بِالْحَدِيثِ الْمَرْفُوعِ عَنِ النَّبِيِّ ﷺ قَالَ: «جَارُ الدَّارِ أَحَقُّ بِالدَّارِ». وَقَالَ: «الجَارُ أَحَقُّ بِسَقَبِهِ» وَهُوَ قَوْلُ الثَّوْرِيِّ وابْنِ المُبَارَكِ وَأَهْلِ الْكُوفَةِ.

تخريج: وأخرجه البخاري، الحيل، باب: في الهبة والشفعة، ح:٦٩٧٦ من حديث معمر به.

Chapter 34. (What Has Been Related About The Partner Is The Preemptor)

(المعجم ٣٤) - بَابُ [مَا جَاءَ أَنَّ الشَّرِيكَ شَفِيعٌ] (التحفة ٣٤)

1371. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "The partner is the preemptor, and preemption is in everything." (*Ḥasan*)

[Abū 'Eīsā said:] We do not know of a *Ḥadīth* like this, except from the narration of Abū Ḥamzah As-Sukkarī. More than one narrator reported it from 'Abdul-'Azīz bin Rufai' from Ibn Abī Mulaikah, from the Prophet ﷺ in *Mursal* form, and this is more correct.

(Another chain) from Ibn Abī Mulaikah from the Prophet ﷺ with a similar meaning, but "from Ibn 'Abbās" is not in it. Similar to this was reported by more than one narrator from 'Abdul-'Azīz bin Rufai', "from Ibn 'Abbās" is not in it and this is more correct than the narration of Abū Ḥamzah. Abū Ḥamzah is trustworthy, it is

١٣٧١ - حَدَّثَنَا يُوسُفُ بْنُ عِيسَى: حَدَّثَنَا الفَضْلُ بْنُ مُوسَى عَنْ أَبِي حَمْزَةَ السُّكَّرِيِّ، عَنْ عَبْدِ العَزِيزِ بْنِ رُفَيْعٍ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الشَّرِيكُ شَفِيعٌ والشُّفْعَةُ فِي كُلِّ شَيْءٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ مِثْلَ هٰذَا، إِلَّا مِنْ حَدِيثِ أَبِي حَمْزَةَ السُّكَّرِيِّ. وَقَدْ رَوَى غَيْرُ وَاحِدٍ عَنْ عَبْدِ العَزِيزِ بْنِ رُفَيْعٍ، عَنِ ابْنِ أَبِي مُلَيْكَةَ عَنِ النَّبِيِّ ﷺ، مُرْسَلًا وهٰذَا أَصَحُّ.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ عَبْدِ العَزِيزِ بْنِ رُفَيْعٍ، عَنِ ابْنِ أَبِي مُلَيْكَةَ عَنِ النَّبِيِّ ﷺ، نَحْوَهُ بِمَعْنَاهُ. ولَيْسَ فِيهِ، عَنِ ابْنِ عَبَّاسٍ وهٰكَذَا رَوَى غَيْرُ وَاحِدٍ عَنْ عَبْدِ العَزِيزِ ابْنِ رُفَيْعٍ، مِثْلَ هٰذَا. لَيْسَ فِيهِ عَنِ ابْنِ عَبَّاسٍ

وَهٰذَا أَصَحُّ مِنْ حَدِيثِ أَبِي حَمْزَةَ، وأَبُو حَمْزَةَ ثِقَةٌ. يُمْكِنُ أَنْ يَكُونَ الخَطَأُ مِنْ غَيْرِ أَبِي حَمْزَةَ.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو الأَحْوَصِ عَنْ عَبْدِ العَزِيزِ بْنِ رُفَيْعٍ، عَنِ ابْنِ أَبِي مُلَيْكَةَ عَنِ النَّبِيِّ ﷺ، نَحْوَ حَدِيثِ أَبِي بَكْرِ بْنِ عَيَّاشٍ. وَقَالَ أَكْثَرُ أَهْلِ الْعِلْمِ: إِنَّمَا تَكُونَ الشُّفْعَةُ فِي الدُّورِ وَالْأَرَضِينَ. وَلَمْ يَرَوُا الشُّفْعَةَ فِي كُلِّ شَيْءٍ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: الشُّفْعَةُ فِي كُلِّ شَيْءٍ. والْقَوْلُ الأَوَّلُ أَصَحُّ.

possible that the mistake is from someone other than Abū Ḥamzah.

(Another chain) from Ibn Abī Mulaikah from the Prophet ﷺ, and it is similar to the (last) narration of Abū Bakr bin 'Ayyāsh (above).

Most of the people of knowledge said that preemption only takes place in homes and lands, they did not think that preemption was for everything. Some of the people of knowledge said that preemption was for everything. But the first view is more correct.

تخريج: **[إسناده حسن]** وأخرجه النسائي في الكبرى (تحفة الأشراف: ٥/ ٤٥، ح: ٥٧٩٥) والبيهقي: ٦/ ١٠٩ من حديث الفضل بن موسى به وتابعه الصدوق/ حسن الحديث، نعيم بن حماد عند البيهقي: ٦/ ١٠٩.

Comments:

It is correct and proven that on all types of immovable property, the right of preemption is applicable, and movable property is exempt. According to Imām 'Aṭā, the right of preemption is applicable to all types of property. Imām Mālik also supports this point of view. According to Imām Aḥmad, among the movable property, the right of preemption is applicable only on animals, and all other types of property are exempt.

Chapter 35. What Has Been Related About Lost Items,[1] The Stray Camel And Sheep

(المعجم ٣٥) - بَابُ مَا جَاءَ فِي اللُّقَطَةِ وَضَالَّةِ الْإِبِلِ وَالْغَنَمِ (التحفة ٣٥)

١٣٧٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمٰنِ، عَنْ يَزِيدَ مَوْلَى الْمُنْبَعِثِ، عَنْ زَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ: أَنَّ رَجُلًا سَأَلَ رَسُولَ اللهِ ﷺ عَنِ اللُّقَطَةِ؟ فَقَالَ: «عَرِّفْهَا سَنَةً ثُمَّ اعْرِفْ وِكَاءَهَا وَوِعَاءَهَا وَعِفَاصَهَا، ثُمَّ اسْتَنْفِقْ بِهَا، فَإِنْ

1372. Zaid bin Khālid Al-Juhnī narrated: "A man asked the Messenger of Allāh ﷺ about lost items. So he said: 'Make a public announcement about it for one year. Remember its string, its container, and its sack. Then use it, and if its owner comes then give it to him.' So he said to him: 'O Messenger of Allāh! What about

[1] Meaning, items that are found about which it is apparent someone has lost them.

the stray sheep?' He said: 'Take it, for it is either for you, your brother, or the wolf.' He said: 'O Messenger of Allāh! What about the stray camel?'" He said: "Then the Prophet ﷺ got angry until his cheeks became red or his face became red. He said: 'What concern is it of yours? It has its feet and its water reserve until it reaches its owner.'" (*Ṣaḥīḥ*)

There are narrations on this topic from Ubayy bin Ka'b, 'Abdullāh bin 'Umar, Al-Jārūd bin Al-Mu'allā. 'Iyāḍ bin Ḥimār, and Jarīr bin 'Abdullāh. The *Ḥadīth* of Zaid bin Khālid is a *Ḥasan Ṣaḥīḥ Ḥadīth*, it has been reported from him through more than one route.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They permitted using the lost item when one announces it for a year and does not find who it belongs to. This is the view of Ash-Shāfi'ī, Aḥmad, and Isḥāq.

Some of the people of knowledge among the Companions of the Prophet ﷺ and others said that he announces it for one year, then either its owner comes or he gives it in charity. This is the view of Sufyān Ath-Thawrī, 'Abdullāh bin Al-Mubārak, and it is the view of the people of Al-Kūfah. They did not think that the holder of the lost item should use it if he is wealthy. Ash-Shāfi'ī said he can use it even if he is wealthy, because during the time of the Messenger of Allāh ﷺ, Ubayy

جَاءَ رَبُّهَا فَأَدِّهَا إِلَيْهِ» فَقَالَ [لَهُ]: يَا رَسُولَ اللهِ! فَضَالَّةُ الْغَنَمِ؟ فَقَالَ: «خُذْهَا، فَإِنَّمَا هِيَ لَكَ أَوْ لِأَخِيكَ أَوْ لِلذِّئْبِ» فَقَالَ: يَا رَسُولَ اللهِ! فَضَالَّةُ الإِبِلِ؟ قَالَ: فَغَضِبَ النَّبِيُّ ﷺ حَتَّى احْمَرَّتْ وَجْنَتَاهُ، أَوِ احْمَرَّ وَجْهُهُ. فَقَالَ: «مَالَكَ وَلَهَا؟ مَعَهَا حِذَاؤهَا وسِقَاؤُهَا حَتَّى تَلْقَى رَبَّهَا». وَفِي الْبَابِ عَنْ أُبَيِّ بْنِ كَعْبٍ وَعَبْدِ اللهِ بْنِ عُمَرَ وَالجَارُودِ بْنِ المُعَلَّى وعِيَاضِ بْنِ حِمَارٍ وجَرِيرِ بْنِ عَبْدِ اللهِ. حَدِيثُ زَيْدِ بْنِ خَالِدٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ عَنْهُ مِنْ غَيْرِ وَجْهٍ. وَحَدِيثُ يَزِيدَ مَوْلَى الْمُنْبَعِثِ، عَنْ زَيْدِ بْنِ خَالِدٍ، حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ عَنْهُ مِنْ غَيْرِ وَجْهٍ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ، ورَخَّصُوا فِي اللُّقَطَةِ إِذَا عَرَّفَهَا سَنَةً فَلَمْ يَجِدْ مَنْ يَعْرِفُهَا، أَنْ يَنْتَفِعَ بِها، وهُوَ قَوْلُ الشَّافِعِيِّ وأَحْمَدَ وَإِسْحَاقَ. وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: يُعَرِّفُهَا سَنَةً، فَإِنْ جَاءَ صَاحِبُهَا وإِلَّا تَصَدَّقَ بِهَا. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وعَبْدِ الله بْنِ المُبَارَكِ، وهُوَ قَوْلُ أَهْلِ الْكُوفَةِ، لَمْ يَرَوْا لِصَاحِبِ اللُّقَطَةِ أَنْ يَنْتَفِعَ بِهَا إِذَا كَانَ غَنِيًّا. وَقَالَ الشَّافِعِيُّ: يَنْتَفِعُ بِهَا وإِنْ كانَ غَنِيًّا، لِأَنَّ أُبَيَّ بْنَ كَعْبٍ أَصَابَ عَلَى عَهْدِ رَسُولِ الله ﷺ صُرَّةً فِيهَا مِائَةُ دِينَارٍ، فَأَمَرَهُ رَسُولُ اللهِ ﷺ أَنْ يُعَرِّفَهَا ثُمَّ يَنْتَفِعَ بهَا، وَكَانَ أُبَيٌّ كَثِيرَ المَالِ، مِنْ

bin Ka'b found a sack with one hundred Dīnār in it. The Messenger of Allāh ﷺ ordered him to announce it, then use it, and Ubayy had alot of wealth, he was one of the wealthy Companions of the Messenger of Allāh. So the Messenger of Allāh ﷺ ordered him to announce it, but he did not find anyone to claim it. So the Prophet ﷺ told him to use it. If the lost item was not lawful except for the one that charity is lawful for, then it would not be lawful for 'Alī bin Abī Ṭālib. While 'Alī bin Abī Ṭālib found some Dīnār during the time of the Messenger of Allāh ﷺ and announced it, but he did not find anyone to claim it. So the Prophet ﷺ told him to use it. Charity was not lawful for 'Alī bin Abī Ṭālib. (*Ṣaḥīḥ*)

When the lost item was of little value, some of the people of knowledge allowed using it without announcing it. Some of them said when it is less than a Dīnār then it is to be announced on Friday, this is the view of Isḥāq bin Ibrāhīm.

مَيَاسِيرِ أَصْحَابِ رَسُولِ اللهِ ﷺ، فَأَمَرَهُ رَسُولُ اللهِ ﷺ أَنْ يُعَرِّفَهَا، فَلَمْ يَجِدْ مَنْ يَعْرِفُهَا، فَأَمَرَهُ النَّبِيُّ ﷺ أَنْ يَأْكُلَهَا، فَلَوْ كَانَتِ اللُّقَطَةُ لَمْ تَحِلَّ إِلَّا لِمَنْ تَحِلُّ لَهُ الصَّدَقَةُ، لَمْ تَحِلَّ لِعَلِيِّ بْنِ أَبِي طَالِبٍ، لِأَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ أَصَابَ دِينَارًا عَلَى عَهْدِ النَّبِيِّ ﷺ فَعَرَّفَهُ فَلَمْ يَجِدْ مَنْ يَعْرِفُهُ، فَأَمَرَهُ النَّبِيُّ ﷺ بِأَكْلِهِ، وَكَانَ عَلِيٌّ لَا تَحِلُّ لَهُ الصَّدَقَةُ.

وَقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ، إِذَا كَانَتِ اللُّقَطَةُ يَسِيرَةً، أَنْ يَنْتَفِعَ بِهَا وَلَا يُعَرِّفَهَا. وَقَالَ بَعْضُهُمْ: إِذَا كَانَ دُونَ دِينَارٍ يُعَرِّفُهَا قَدْرَ جُمُعَةٍ، وَهُوَ قَوْلُ إِسْحَاقَ بْنِ إِبْرَاهِيمَ.

تخريج: متفق عليه، وأخرجه البخاري، كتاب في اللقطة، باب: إذا جاء صاحب اللقطة بعد سنة ردها عليه لأنها وديعة عنده، ح:٢٤٣٦ ومسلم، ح:١٧٢٢ عن قتيبة به * وفي الباب عن أبي ابن كعب [يأتي:١٣٧٤] وعبدالله بن عمر [صوابه، عبدالله بن عمرو، تقدم:١٢٨٩ مختصرًا وأبو داود، ح:١٧١٠-١٧١٣] والجارود بن المعلى [أحمد:٥/ ٨٠ والدارمي، ح:٢٦٠٤، ٢٦٠٥] وعياض بن حمار [أبو داود، ح:١٧٠٩] وجرير بن عبدالله [أبو داود، ح:١٧٢٠].

Comments:

If the lost property is able to be secured or preserved, like an animal or handsome amount of money, and there is ample chance of its spoilage or misuse if not picked up or taken in custody, in such circumstances, it can be picked up and kept in custody. Sincere efforts should be made to find the owner, and it should be announced for the period of one full year. After the search of one year, the money can be used by the person who found it, no matter whether he is rich or poor. If later on the owner of the property is found, it must be returned to him.

1373. Zaid bin Khālid Al-Juhnī narrated that the Messenger of Allāh ﷺ was asked about the lost item. He said: "Make a public announcement about it for one year, if it is claimed then give it to him. Otherwise remember its sack, string, and its count. Then use it, and if its owner comes, give it to him." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route. Aḥmad bin Ḥanbal said: "The most correct thing on this topic is this *Ḥadīth*."

١٣٧٣ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو بَكْرٍ الحَنَفِيُّ: حَدَّثَنَا الضَّحَّاكُ بْنُ عُثْمَانَ: حَدَّثَنِي سَالِمٌ أَبُو النَّضْرِ عَنْ بُسْرِ بْنِ سَعِيدٍ، عَنْ زَيْدِ بْنِ خَالِدٍ الجُهَنِيِّ: أَنَّ رَسُولَ اللهِ ﷺ سُئِلَ عَنِ اللُّقَطَةِ فَقَالَ: «عَرِّفْهَا سَنَةً، فَإِنِ اعْتُرِفَتْ، فَأَدِّهَا، وَإِلَّا فَاعْرِفْ عِفَاصَهَا وَوِكَاءَهَا وعَدَدَهَا، ثُمَّ كُلْهَا فَإِنْ جاءَ صَاحِبُهَا فَأَدِّهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الوَجْهِ. وقَالَ أَحْمَدُ بْنُ حَنْبَلٍ: أَصَحُّ شَيْءٍ فِي هٰذَا الْبَابِ هٰذَا الحَدِيثُ.

تخريج: متفق عليه، انظر الحديث السابق.

Comments:

In the view of Imām Mālik, the amount can be returned after the recognition and identification of the owner. According to Imām Abū Ḥanīfah, if the owner appears genuine, the amount should be returned to him and there is no need to ask for his identification, but if there is a need then it may be requested. Without any genuine reason having doubts is not correct. (*Fatḥ Al-Bārī* v. 5. p 98.)

1374. Suwaid bin Ghafalah said: "I went out with Zaid bin Ṣūḥān and Salmān bin Rabī'ah, and found a whip." In his narration Ibn Numair (one of the narrators) said: "I found a lost whip and took it. They said: 'Leave it.' I said: 'I will not leave it to be eaten by the predators. I will take it to make use of it.' So I met up with Ubayy bin Ka'b and asked him about that. So he narrated the *Ḥadīth*, he said: 'That is fine. I found a sack containing one hundred Dīnār during the lifetime of the Messenger of Allāh ﷺ' He said: 'So I brought it to him. He said to me: "Make a public announcement about it for one year." So I

١٣٧٤ - **حَدَّثَنَا** الحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ ويَزِيدُ بْنُ هَارُونَ عَنْ سُفْيَانَ، عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، عَنْ سُوَيْدِ بْنِ غَفَلَةَ، قَالَ: خَرَجْتُ مَعَ زَيْدِ بْنِ صُوحَانَ وسَلْمَانَ بْنِ رَبِيعَةَ، فَوَجَدْتُ سَوْطًا، قَالَ ابْنُ نُمَيْرٍ فِي حَدِيثِهِ: فَالتَقَطْتُ سَوْطًا فَأَخَذْتُهُ. قَالَا: دَعْهُ. فَقُلْتُ: لَا أَدَعُهُ تَأْكُلهُ السِّبَاعُ، لَآخُذَنَّهُ فَلأَسْتَمْتِعَنَّ بِهِ، فَقَدِمْتُ عَلَى أُبَيِّ بْنِ كَعْبٍ، فَسَأَلْتُهُ عَنْ ذٰلِكَ، وحَدَّثْتُهُ الْحَدِيثَ. فَقَالَ: أَحْسَنْتَ، وجَدْتُ عَلَى عَهْدِ رَسُولِ اللهِ ﷺ صُرَّةً فِيهَا مِائَةُ دِينَارٍ، قَالَ، فَأَتَيْتُهُ بِهَا. فَقَالَ لِي: «عَرِّفْهَا حَوْلًا» فَعَرَّفْتُهَا حَوْلًا

announced it for a year but did not find anyone to claim it. Then I brought it to him. He said to me: "Make a public announcement about it for another year." So I announced it for a year but did not find anyone to claim it. Then I brought it to him. He said: "Make a public announcement about it for another year." And he said: "Remember its amount, its container and its string. If someone comes seeking it and informs you of its amount and its string, then give it to him, otherwise use it." (*Ṣaḥīḥ*)

[He said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

فَما أَجِدُ مَنْ يَعْرِفُهَا، ثُمَّ أَتَيْتُهُ بِهَا. فَقَالَ: «عَرِّفْهَا حَوْلًا آخَرَ» فَعَرَّفْتُهَا حَوْلًا ثُمَّ أَتَيْتُهُ [بِهَا]. فَقَالَ: «عَرِّفْهَا حَوْلًا [آخَرَ]» وَقَالَ: «أَحْصِ عِدَّتَهَا وَوِعَاءَهَا وَوِكَاءَهَا، فَإِنْ جَاءَ طَالِبُهَا فَأَخْبَرَكَ بِعِدَّتِهَا وَوِعَائِهَا وَوِكَائِهَا فَادْفَعْهَا إِلَيْهِ، وإِلَّا فَاسْتَمْتِعْ بِهَا»

[قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، اللقطة، باب معرفة العفاص والوكاء وحكم ضالة الغنم والإبل، ح:١٧٢٣ من حديث عبدالله بن نمير والبخاري، ح:٢٤٣٧ من حديث سلمة بن كهيل به.

Comments:

Announcement of lost and found items is necessary up to one year. If the amount is reasonably valuable, then just for precautionary measures, the announcement to find the owner can be extended for more than one year.

Chapter 36. What Has Been Related About A *Waqf*

(المعجم ٣٦) - بَابُ مَا جَاءَ فِي الْوَقْفِ (التحفة ٣٦)

1375. Ismā'īl bin Ibrāhīm narrated from Ibn 'Awn, from Nāfi' that Ibn 'Umar said: "Umar got some land from Khaibar and said: 'O Messenger of Allāh! I got some wealth from Khaibar and I never ever had any wealth as plentiful as it, so what do you order me (to do with it)?' He said: 'If you wish, make it a grant and give charity from it.' So 'Umar gave it in charity: That is not be sold entirely,

١٣٧٥ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنِ ابْنِ عَوْنٍ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، قَالَ: أَصَابَ عُمَرُ أَرْضًا بِخَيْبَرَ فَقَالَ: يَا رَسُولَ اللهِ! أَصَبْتُ مَالًا بِخَيْبَرَ، لَمْ أُصِبْ مَالًا قَطُّ أَنْفَسَ عِنْدِي مِنْهُ. فَمَا تَأْمُرُنِي؟ قَالَ: «إِنْ شِئْتَ حَبَّسْتَ أَصْلَهَا وتَصَدَّقْتَ بِهَا» فَتَصَدَّقَ بِهَا عُمَرُ: أَنَّهَا لَا يُبَاعُ أَصْلُهَا وَلَا يُوهَبُ وَلَا يُورَثُ.

nor given away, nor inherited, to be used to produce charity for the needy, those who are near it, for freeing slaves, for the cause of Allāh, the wayfarer, the guest, and that there is no harm on its custodian consuming what is customary from it, or eating from its charity, without trying to amass wealth from it." (*Ṣaḥīḥ*)

He (Ibn 'Awn) said: "I mentioned it to Muḥammad bin Sīrīn and he said: "Not to amass wealth."

Ibn ['Awn] said: "Another man narrated it to me and he said that he read it on a piece of a tanned skin: 'Not to amass wealth.'"

Ismā'īl said: And I read it with Ibn 'Ubaidullāh bin 'Umar. It said in it: 'Not to amass wealth.'"

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. We do not know of any disagreement among the earlier ones among them over the allowance of granting lands or other things for *Waqf*.

تَصَدَّقَ بِهَا فِي الْفُقَرَاءِ وَالْقُرْبَىٰ وَفِي الرِّقَابِ وَفِي سَبِيلِ اللهِ، وَابْنِ السَّبِيلِ، وَالضَّيْفِ، لَا جُنَاحَ عَلَى مَنْ وَلِيهَا أَنْ يَأْكُلَ مِنْهَا بِالْمَعْرُوفِ، أَوْ يُطْعِمَ صَدِيقًا، غَيْرَ مُتَمَوِّلٍ فِيهِ. قَالَ: فَذَكَرْتُهُ لِمُحَمَّدِ بْنِ سِيرِينَ فَقَالَ: غَيْرَ مُتَأَثِّلٍ مَالًا.

قَالَ ابْنُ [عَوْنٍ]: فَحَدَّثَنِي بِهِ رَجُلٌ آخَرُ أَنَّهُ قَرَأَهَا فِي قِطْعَةِ أَدِيمٍ أَحْمَرَ غَيْرَ مُتَأَثِّلٍ مَالًا.

قَالَ إِسْمَاعِيلُ: وَأَنَا قَرَأْتُهَا عِنْدَ ابْنِ عُبَيْدِ اللهِ بْنِ عُمَرَ، فَكَانَ فِيهِ غَيْرَ مُتَأَثِّلٍ مَالًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. لَا نَعْلَمُ بَيْنَ الْمُتَقَدِّمِينَ مِنْهُمْ فِي ذٰلِكَ اخْتِلَافًا فِي إِجَازَةِ وَقْفِ الْأَرَضِينَ وَغَيْرِ ذٰلِكَ.

تخريج: متفق عليه، وأخرجه البخاري، الشروط، باب الشروط في الوقف، ح:٢٧٣٧ ومسلم، ح:١٦٣٢ من حديث ابن عون به.

Comments:

'Waqf' means to stop, and in the *Sharī'ah* it means the property, a house or garden, given in charity in the name of Allāh. If the property given in charity is excluded from personal property, it is called an endowment of a trust.

1376. Abū Hurairah, may Allāh be pleased with him, narrated that the Messenger of Allāh ﷺ said: "When a person dies, his deeds are cut off except for three: Continuing charity, knowledge that others

١٣٧٦ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنِ الْعَلَاءِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِذَا مَاتَ الْإِنْسَانُ

benefited from, and a righteous son who supplicates for him." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

انْقَطَعَ عَمَلُهُ إِلَّا مِنْ ثَلَاثٍ: صَدَقَةٍ جَارِيَةٍ. وَعِلْمٍ يُنْتَفَعُ بِهِ. وَوَلَدٍ صَالِحٍ يَدْعُو لَهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الوصية، باب ما يلحق الإنسان من الثواب بعد وفاته، ح:١٦٣١ عن علي بن حجر به.

Comments:

Continuing charity is charity the benefit and reward of which continues even after the death of the person. For example, if someone gives property in charity to please Allāh, or does some other deed of charity, like construction of a mosque, or establishes a school, or digs a well for the use of people, it is all continuing charity. Knowledge means preaching, teaching or writing of books for the guidance of people etc., are all deeds of continuing charity.

Chapter 37. What Has Been Related About Injuries Caused By Domestic Animals

(المعجم ٣٧) - بَابُ مَا جَاءَ فِي الْعَجْمَاءِ جُرْحُهَا جُبَارٌ (التحفة ٣٧)

1377. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The injuries caused by the animal are without liability,[1] and wells are without liability, and mines are without liability, and the *Khumus* is due on *Rikāz*."[2] (***Ṣaḥīḥ***)

(Another chain) from Abū Hurairah, from the Prophet ﷺ with similar meaning.

[He said:] There are narrations on this topic from Jābir, 'Amr bin 'Awf Al-Muzanī, and 'Ubādah bin Aṣ-Ṣāmiṭ.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

Al-Anṣārī narrated to us: Ma'n narrated to us, he said: "Mālik bin

١٣٧٧ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «العَجْمَاءُ جُرْحُهَا جُبَارٌ: وَالْبِئْرُ جُبَارٌ، والمَعْدِنُ جُبَارٌ، وفِي الرِّكَازِ الخُمْسُ».

حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ عَنْ سَعِيدِ بْنِ المُسَيَّبِ وأَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ، نَحْوَهُ.

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ، وَعَمْرِو بْنِ عَوْفٍ المُزَنِيِّ، وعُبَادَةَ بْنِ الصَّامِتِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

حَدَّثَنَا الأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ قَالَ: قَالَ

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[1] Meaning the owner of these is not liable for damages others suffer from them.

[2] Buried treasure. See no. 642.

مَالِكُ بْنُ أَنَسٍ: وتَفْسِيرُ حَدِيثِ النَّبِيِّ ﷺ: «العَجْمَاءُ جُرْحُهَا جُبَارٌ» يَقُولُ: هَدَرٌ لَادِيَةَ فِيهِ.

[قَالَ أَبُو عِيسَى:] ومَعْنَى قَوْلِهِ: «العَجْمَاءُ جُرْحُهَا جُبَارٌ» فَسَّرَ [ذَلِكَ] بَعْضُ أَهْلِ الْعِلْمِ قَالُوا: الْعَجْمَاءُ الدَّابَّةُ الْمُنْفَلِتَةُ مِنْ صَاحِبِهَا. فَمَا أَصَابَتْ فِي انْفِلَاتِهَا فَلَا غُرْمَ عَلَى صَاحِبِهَا. «والمَعْدِنُ جُبَارٌ» يَقُولُ: إِذَا احْتَفَرَ الرَّجُلُ مَعْدِنًا فَوَقَعَ فِيهِ إِنْسَانٌ فَلَا غُرْمَ عَلَيْهِ، وكَذَلِكَ الْبِئْرُ إِذَا احْتَفَرَهَا الرَّجُلُ لِلسَّبِيلِ، فَوَقَعَ فِيهَا إِنْسَانٌ فَلَا غُرْمَ عَلَى صَاحِبِهَا. «وفِي الرِّكَازِ الْخُمُسُ» والرِّكَازُ: مَا وُجِدَ مِنْ دَفْنِ أَهْلِ الْجَاهِلِيَّةِ، فَمَنْ وَجَدَ رِكَازًا أَدَّى مِنْهُ الْخُمُسَ إِلَى السُّلْطَانِ. ومَا بَقِيَ فَهُوَ لَهُ.

Anas said: 'The explanation of the *Hadīth* of the Prophet ﷺ: "The injuries caused by the animals are without liability" it is said: "It is impunity that there is no blood money for."

[Abū 'Eīsā said:] As for the meaning of his saying: "The injuries caused by the animal are without liability" some of the people of knowledge explained it saying that *Al-'Ajmā'* is the animal that has wandered away from its owner. So whatever it has damaged in its wandering, then it is no crime upon its owner. And: "mines" it is said that when a man excavates a mine and someone falls into it then there is no crime upon him. The same with a well, if a man digs a well by the road and someone falls into it then there is no crime upon the owner. And: "the *Khumus* is due on buried treasure" *Ar-Rikāz* (buried treasure) is something discovered that was buried by the people of *Jāhiliyyah*. Whoever finds such buried treasure, he pays one fifth of it to the *Sultān*, whatever remains belongs to him.

تخريج: متفق عليه، وأخرجه مسلم، الحدود، باب جرح العجماء والمعدن والبئر جبار، ح: ١٧١٠ من حديث سفيان بن عيينة والبخاري، ح: ١٤٩٩ من حديث الزهري به * وفي الباب عن جابر [أحمد: ٣/ ٣٣٥، ٣٥٣] وعمرو المزني [ابن ماجه، ح: ٢٦٧٤] وعبادة بن الصامت [ابن ماجه، ح: ٢٦٧٥] * ورواه مسلم، الحدود، باب جرح العجماء والمعدن والبئر جبار، ح: ١٧١٠/ ٤٥ عن قتيبة، والبخاري، ح: ٦٩١٢ من حديث الليث بن سعد به، وحديث مالك في الموطأ: ٢/ ٨٦٩ وهو مختصر.

Comments:

If someone gets hurt by an animal or by falling into a well, there is no compensation for it from the owner of the animal and well.

Chapter 38. What Has Been Mentioned About Reviving Barren Land

(المعجم ٣٨) - بَابُ مَا ذُكِرَ فِي إِحْيَاءِ أَرْضِ الْمَوَاتِ (التحفة ٣٨)

1378. Sa'eed bin Zaid narrated that the Prophet ﷺ said: "Whoever revives a barren land then it is for him, and there is no right for the unjust root." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. Some of them reported it from Hishām from 'Urwah, from his father, from the Prophet ﷺ in *Mursal* form.

This [*Ḥadīth*] is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Aḥmad and Isḥāq. They said he may revive the barren land without the permission of the *Sulṭān*. Some of them said he is not to revive it without the permission of the *Sulṭān*. But the first view is more correct.

[He said:] There are narrations on this topic from Jābir, 'Amr bin 'Awf Al-Muzanī's great-grandfather, and Samurah.

Abū Mūsā Muḥammad bin Al-Muthanna narrated to us, he said: "I asked Abul-Walīd Aṭ-Ṭayālisī about his saying: 'and there is no right for unjust root' he said: 'The unjust root: The usurper who takes what is not his.' I said: 'So he is a man who farms a land that is not his?' He said: 'That is it.'"

١٣٧٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ [الثَّقَفِيُّ]: حَدَّثَنَا أَيُّوبُ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ سَعِيدِ بْنِ زَيْدٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ أَحْيَى أَرْضًا مَيِّتَةً فَهِيَ لَهُ، وَلَيْسَ لِعِرْقٍ ظَالِمٍ حَقٌّ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

وَقَدْ رَوَاهُ بَعْضُهُمْ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ، مُرْسَلًا. وَالْعَمَلُ عَلَى هٰذَا [الْحَدِيثِ] عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ وغَيْرِهِمْ وهُوَ قَوْلُ أَحْمَدَ وَإِسْحَاقَ. قَالُوا: لَهُ أَنْ يُحْيِيَ الأَرْضَ الْمَوَاتَ بِغَيْرِ إِذْنِ السُّلْطَانِ. و[قَدْ] قَالَ بَعْضُهُمْ: لَيْسَ لَهُ أَنْ يُحْيِيَهَا إِلَّا بِإِذْنِ السُّلْطَانِ وَالْقَوْلُ الأَوَّلُ أَصَحُّ.

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَعَمْرِو بْنِ عَوْفٍ الْمُزَنِيِّ جَدِّ كَثِيرٍ وسَمُرَةَ.

حَدَّثَنَا أَبُو مُوسَى مُحَمَّدُ بْنُ الْمُثَنَّى قَالَ: سَأَلْتُ أَبَا الْوَلِيدِ الطَّيَالِسِيَّ عَنْ قَوْلِهِ: «وَلَيْسَ لِعِرْقٍ ظَالِمٍ حَقٌّ» فَقَالَ: الْعِرْقُ الظَّالِمُ: الْغَاصِبُ الَّذِي يَأْخُذُ مَا لَيْسَ لَهُ. قُلْتُ: هُوَ الرَّجُلُ الَّذِي يَغْرِسُ فِي أَرْضِ غَيْرِهِ؟ قَالَ: هُوَ ذَاكَ.

تخريج: [صحيح] وأخرجه أبو داود، الخراج، باب: في إحياء الموات، ح:٣٠٧٣ من حديث عبدالوهاب به وإسناده حسن وقواه الحافظ في الفتح * وفي الباب عن جابر [يأتي:١٣٧٩]

وعمرو بن عوف المزني [ابن عدي في الكامل: ٦/ ٢٠٧٩] وسمرة [أبو داود، ح: ٣٠٧٧ وأحمد: ٥/ ١٢، ٢١].

1379. Jābir bin 'Abdullāh narrated that the Prophet ﷺ said: "Whoever revives a barren land, then it is for him." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣٧٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ أَيُّوبَ، عَنْ هِشَامِ ابْنِ عُرْوَةَ، عَنْ وَهْبِ بْنِ كَيْسَانَ، عَنْ جَابِرِ ابْنِ عَبْدِ اللهِ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ أَحْيَى أَرْضًا مَيِّتَةً فَهِيَ لَهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صحيح.

تخريج: [إسناده صحيح] وأخرجه النسائي في الكبرى، ح: ٥٧٥٧ من حديث عبدالوهاب الثقفي به.

Comments:

Most of the scholars are of the view that if a cultivator cultivates barren and uncultivated land, which belongs to no one, it belongs to him. In the view of Imām Mālik, this land should be away from any habitation where it is not needed for common use of the community.

Chapter 39. What Has Been Related About Land Reserves

(المعجم ٣٩) - بَابُ مَا جَاءَ فِي الْقَطَائِعِ (التحفة ٣٩)

1380. Shumair narrated that Abyaḍ bin Ḥammāl visited the Messenger of Allāh ﷺ who asked him to set aside a reserve of salt (a mine). So he reserved it for him. As he was turning away, a man in the gathering said: "Do you know what you reserved for him? You merely reserved stagnant water for him." He (Shumair) said: "So he left him." He (Shumair) said: "So he asked him (the Prophet ﷺ) about making a private pasture of Arāk (a type of tree)." He said: "As long as it is not harmed by the hooves of the camels." (***Ḥasan***)

So I (At-Tirmidhī) recited that before Qutaibah and he said: "Yes."

١٣٨٠ - [قَالَ:] قُلْتُ لِقُتَيْبَةَ بْنِ سَعِيدٍ: حَدَّثَكُمْ مُحَمَّدُ بْنُ يَحْيَى بْنِ قَيْسٍ الْمَأْرِبِيُّ، قَالَ: أَخْبَرَنِي أَبِي عَنْ ثُمَامَةَ بْنِ شَرَاحِيلَ، عَنْ سُمَيِّ بْنِ قَيْسٍ، عَنْ شُمَيْرٍ، عَنْ أَبْيَضَ ابْنِ حَمَّالٍ أَنَّهُ وفَدَ إِلَى رَسُولِ اللهِ ﷺ، فَاسْتَقْطَعَهُ الْمِلْحَ، فَقَطَعَ لَهُ. فَلَمَّا أَنْ وَلَّى قَالَ رَجُلٌ مِنَ الْمَجْلِسِ: أَتَدْرِي مَا قَطَعْتَ لَهُ؟ إِنَّمَا قَطَعْتَ لَهُ الْمَاءَ الْعِدَّ. قَالَ: فَانْتَزَعَهُ مِنْهُ. قَالَ، وَسَأَلَهُ عَمَّا يُحْمَى مِنَ الْأَرَاكِ؟ قَالَ: «مَا لَمْ تَنَلْهُ خِفَافُ الإِبِلِ» فَأَقَرَّ بِهِ قُتَيْبَةُ، وَقَالَ: نَعَمْ.

حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى بْنِ أَبِي عُمَرَ: حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى بْنِ قَيْسٍ الْمَأْرِبِيُّ،

(Another chain) with similar meaning.

[He said:] There are narrations on this topic from Wā'il and Asmā' bint Abī Bakr.

[Abū 'Eīsā said:] The *Ḥadīth* of Abyaḍ bin Ḥammāl is a *Ḥasan Gharīb Ḥadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others regarding reserved land. They thought that it was allowed for the *Imām* (ruler) to reserve land for whomever he saw it fit.

[بِهٰذَا الإِسْنَادِ] نَحْوَهُ.

[الْمَأْرِبُ: نَاحِيَةٌ مِنَ الْيَمَنِ].

[قَالَ:] وَفِي الْبَابِ عَنْ وَائِلٍ وأَسْمَاءَ ابْنَةِ أَبِي بَكْرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبْيَضَ بْنِ حَمَّالٍ حَدِيثٌ حَسَنٌ غَرِيبٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، فِي الْقَطَائِعِ. يَرَوْنَ جَائِزًا أَنْ يُقْطِعَ الإِمَامُ لِمَنْ رَأَى ذَلِكَ.

تخريج: [**حسن**] وأخرجه أبو داود، الخراج، باب: في إقطاع الأرضين، ح:٣٠٦٤ عن قتيبة به وصححه ابن حبان، ح:١١٤٠، ١٦٤٢ * وفي الباب عن وائل [يأتي:١٣٨١] وأسماء بنت أبي بكر [أبو داود، ح:٣٠٦٩].

Comments:

Common things which are in common use of the community, and their availability is also abundant, such things like water, grass, waste land in use of people, should not be given as a grant to one person. If such things are given as a grant, it will create a problem for the people.

1381. 'Alqamah bin Wā'il narrated from his father that the Prophet ﷺ set aside a land reserve for him in Ḥaḍramawt. (One of the narrators added): "And he sent Mu'āwiyah with him to reserve it for him." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣٨١ - **حَدَّثَنَا** مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ: أَخْبَرَنَا شُعْبَةُ عَنْ سِمَاكٍ قَالَ: سَمِعْتُ عَلْقَمَةَ بْنَ وَائِلٍ يُحَدِّثُ عَنْ أَبِيهِ: أَنَّ النَّبِيَّ ﷺ أَقْطَعَهُ أَرْضًا بِحَضْرَمَوْتَ. قَالَ مَحْمُودٌ: حَدَّثَنَا النَّضْرُ عَنْ شُعْبَةَ، وَزَادَ فِيهِ: وَبَعَثَ مَعَهُ مُعَاوِيَةَ لِيُقْطِعَهَا إِيَّاهُ.

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [**إسناده صحيح**] وأخرجه أبو داود، السجستاني، الخراج، باب: في إقطاع الأرضين، ح:٣٠٥٨ من حديث شعبة به وهو في مسند الطيالسي، ح:١٠١٧.

Comments:

Real purpose of granting an estate to cultivators is to make the land useful for cultivation, and to improve the overall economic condition of the local community and country.

Chapter 40. What Has Been Related About The Virtue Of Planting

(المعجم ٤٠) - بَابُ مَا جَاءَ فِي فَضْلِ الْغَرْسِ (التحفة ٤٠)

1382. Anas narrated that the Prophet ﷺ said: "No Muslim plants a plant or sows a crop, then a person, or a bird, or an animal eats from it, except that it will be charity for him." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Abū Ayyūb, Umm Mubash-shir, Jābir, and Zaid bin Khālid.

[Abū 'Eīsā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

١٣٨٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ قَتَادَةَ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَا مِنْ مُسْلِمٍ يَغْرِسُ غَرْسًا، [أَ]وْ يَزْرَعُ زَرْعًا، فَيَأْكُلُ مِنْهُ إِنْسَانٌ، أَوْ طَيْرٌ، أَوْ بَهِيمَةٌ إِلَّا كَانَتْ لَهُ صَدَقَةٌ».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي أَيُّوبَ وَأُمِّ مُبَشِّرٍ وجَابِرٍ وَزَيْدِ بْنِ خَالِدٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الحرث والمزارعة، باب فضل الزرع والغرس إذا أكل منه ... إلخ، ح:٢٣٢٠ ومسلم، ح:١٥٥٣ عن قتيبة به * وفي الباب عن أبي أيوب [أحمد:٥/ ٤١٥] وأم مبشر [مسلم:١٥٥٢/ ١١] وجابر [مسلم، ح:١٥٥٢] وزيد بن خالد [لم أجده].

Comments:

Cultivation of land and planting of trees provide multiple benefits to the society. The environment of the area is improved, fruits, food, grains and vegetables become easily available to the community, jobs are increased and commercial activities take place, and life becomes easier and more comfortable. Therefore, if a Muslim cultivates the land with the sincere intention of bringing benefit to the society, he gets reward from Allāh.

Chapter 41. What Has Been Related About Agriculture

(المعجم ٤١) - بَابُ مَا جَاءَ فِي الْمُزَارَعَةِ (التحفة ٤١)

1383. Ibn 'Umar narrated: "The Prophet ﷺ made a deal with the people of Khaibar for half of what was produced from it, whether fruits or crops." (***Ṣaḥīḥ***)

١٣٨٣ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ أَنَّ النَّبِيَّ ﷺ عَامَلَ أَهْلَ خَيْبَرَ بِشَطْرِ مَا يَخْرُجُ مِنْهَا مِنْ ثَمَرٍ أَوْ

زَرْعٍ. وَفِي الْبَابِ عَنْ أَنَسٍ وابْنِ عَبَّاسٍ وَزَيْدِ ابْنِ ثَابِتٍ وجَابِرٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ. لَمْ يَرَوْا بالمُزَارَعَةِ بَأْسًا عَلَى النِّصْفِ والثُّلُثِ والرُّبُعِ.

واخْتَار بَعْضُهُمْ أَنْ يَكُونَ البَذْرُ مِنْ رَبِّ الأَرْضِ. وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ. وكَرِهَ بَعْضُ أَهْلِ العِلْمِ المُزَارَعَةَ بِالثُّلُثِ والرُّبُعِ. ولَمْ يَرَوْا بِمُسَاقَاةِ النَّخِيلِ بِالثُّلُثِ والرُّبُعِ بَأْسًا. وهُوَ قَوْلُ مالِكِ بْنِ أَنَسٍ والشَّافِعِيِّ. وَلَمْ يَرَ بَعْضُهُمْ أَنْ يَصِحَّ شَيْءٌ مِنَ المُزَارَعَةِ، إِلَّا أَنْ يَسْتأْجِرَ الأَرْضَ بِالذَّهَبِ والفِضَّةِ.

There are narrations on this topic from Anas, Ibn 'Abbās, Zaid bin Thābit, and Jābir.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They saw no harm in share-cropping for half, a third, or a quarter.

Some of them preferred that the owner of the land provide the seeds. This is the view of Ahmad and Ishāq. Some of the people of knowledge disliked share-cropping for a third and a quarter, and they saw no harm in *Musāqāh*[1] with date-palms for a third or a quarter. This is the view of Mālik bin Anas and Ash-Shāfi'ī. Some of them did not think that any share-cropping was correct, except for renting out the land for gold and silver.

تخريج: متفق عليه، وأخرجه البخاري، الحرث والمزارعة، باب: إذا لم يشترط السنين في المزارعة، ح:٢٣٢٩ ومسلم، ح:١٥٥١ من حديث يحيى بن سعيد القطان به * وفي الباب عن أنس [ابن ماجه، ح:٢٤٦٩] وابن عباس [ابن ماجه، ح:٢٤٦٨] وزيد بن ثابت [أبو داود، ح:٣٤٠٧] وجابر [أبو داود، ح:٣٤١٤، ٣٤١٥].

Comments:

In Islam, there is no restriction or limit on personal property. All the *A'immah* agree on this point. Giving the land or garden on lease is lawful, provided no party suffers unilateral loss. While giving the land on lease, selecting a particular piece of land by the landlord, or fixing the quantity of the produce beforehand, is not lawful. All the scholars and *A'immah* agree that land or a garden can be leased with the aforesaid restrictions.

[1] *Musāqāh* is an agreement for someone to water and tend to date-palms for the owner, in exchange for a portion of the produce.

Chapter 42. About Share-Cropping

(المعجم ٤٢) - بَابٌ: [مِنَ الْمُزَارَعَةِ]
(التحفة ٤٢)

1384. Rāfi' bin Khadīj narrated: "The Messenger of Allāh ﷺ forbade us from a matter that was of benefit to us. When one of us had some land and we would let someone use it for a portion of its produce or some Dirham. He said: 'When one of you has some land then let him grant it to his brother, or let him farm it.'" (*Ḍa'īf*)

١٣٨٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ أَبِي حُصَيْنٍ، عَنْ مُجَاهِدٍ، عَنْ رَافِعِ بْنِ خَدِيجٍ، قَالَ: نَهَانَا رَسُولُ اللهِ ﷺ عَنْ أَمْرٍ كَانَ لَنَا نَافِعًا، إِذَا كَانَتْ لأَحَدِنَا أَرْضٌ أَنْ يُعْطِيَهَا بِبَعْضِ خَرَاجِهَا أَوْ بِدَرَاهِمَ. وقَالَ: «إِذَا كَانَتْ لِأَحَدِكُمْ أَرْضٌ فَلْيَمْنَحْهَا أَخَاهُ أَوْ لِيَزْرَعْهَا».

تخريج: [إسناده ضعيف] أبوبكر بن عياش ضعيف وأخرجه النسائي: ٧/ ٣٥، ح: ٣٨٩٩ (المزارعة، ذكر الله الأحاديث المختلفة في النهي عن كراء الأرض بالثلث والربع . . . إلخ) من حديث أبي حصين به بلفظ آخر وسنده صحيح/ ومجاهد سمعه من أسيد، انظر النسائي: ٣٨٩٥ وغيره ورواه مسلم، ح: ١٥٤٧ من حديث رافع به.

Comments:

The main purpose of this narration is the same which has been explained in the preceding narration. *'Minḥah'* means to lend the land for a limited period. They used to lease the land for a certain amount of money. The Prophet ﷺ suggested lending the land, without taking money for a certain period to Muslim brothers. This is only a moral suggestion and not a command of law.

1385. Ibn 'Abbās narrated: "The Messenger of Allāh ﷺ did not prohibit share-cropping. But he ordered that they be helpful with each other." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. The *Ḥadīth* of Rāfi' contains confusion (*Iḍtirāb*). This *Ḥadīth* was reported from Rāfi' bin Khadīj from his uncles, and it has been reported from him, from Ẓuhair bin Rāfi' who is one of his uncles. And this *Ḥadīth* has been reported from him with conflicting narrations. There are narrations on this topic from Zaid bin Thābit and

١٣٨٥ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا الفَضْلُ بْنُ مُوسَى الشَّيْبَانِيُّ: حَدَّثَنَا شَرِيكٌ عَنْ شُعْبَةَ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ رَسُولَ اللهِ ﷺ [لَمْ] يُحَرِّمِ الْمُزَارَعَةَ.

وَلٰكِنْ أَمَرَ أَنْ يَرْفُقَ بَعْضُهُمْ بِبَعْضٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وحَدِيثُ رَافِعٍ فِيهِ اضْطِرَابٌ. يُرْوَى هٰذَا الحَدِيثُ عَنْ رَافِعِ بْنِ خَدِيجٍ، عَنْ عُمُومَتِهِ. ويُرْوَى عَنْهُ عَنْ ظُهَيْرِ بْنِ رَافِعٍ، وهُوَ أَحَدُ عُمُومَتِهِ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ

عَنْهُ عَلَى رِوَايَاتٍ مُخْتَلِفَةٍ. وَفِي الْبَابِ عَنْ زَيْدِ بْنِ ثَابِتٍ وَجَابِرٍ رَضِيَ اللهُ عَنْهُمَا.

Jābir, may Allāh be pleased with them.

تخريج: متفق عليه، وأخرجه مسلم، البيوع، باب الأرض تمنح، ح:١٥٥٠ من حديث الفضل بن موسى والبخاري، ح:٢٣٤٢ من حديث عمرو بن دينار به * وفي الباب عن زيد بن ثابت [أبو داود، ح:٣٣٩٠ وغيره] وجابر [أبو داود، ح:٣٤١٤، ٣٤١٥].

In the Name of Allāh, the Merciful, the Beneficent

14. The Chapters On Blood-Money From The Messenger Of Allāh ﷺ

Chapter 1. What Has Been Related About Blood Money, How Many Camels Is It?

1386. Ibn Mas'ūd narrated: "The Messenger of Allāh ﷺ judged for the accidental blood-money: Twenty *Bint Makhād*, twenty male *Ibn Makhād*, twenty *Bint Labūn*, twenty *Jadha'ah*, and twenty *Ḥiqqah*."[1]

There is something on this topic from 'Abdullāh bin 'Amr.

(Another chain) with similar meaning.

[Abū 'Eīsā said:] We do not know of the *Ḥadīth* of Ibn Mas'ūd to be *Marfū'* except from this route, and it has been reported from 'Abdullāh in *Mawqūf* form.

Some of the people of knowledge have followed this, it is the view of Aḥmad and Isḥāq.

The people of knowledge have agreed that the blood-money is taken in three years, each year a third of the blood-money (is paid). They held the view that the blood-money for accidental killing is due from the *'Āqilah*, and some of them held the view that the *'Āqilah* are

[1] See no. 621.

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

(المعجم ١٤) - أَبْوَابُ الدِّيَاتِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٢)

(المعجم ١) - بَابُ مَا جَاءَ فِي الدِّيَةِ كَمْ هِيَ مِنَ الْإِبِلِ (التحفة ١)

١٣٨٦ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الْكِنْدِيُّ الْكُوفِيُّ: أَخْبَرَنَا ابْنُ أَبِي زَائِدَةَ عَنِ الْحَجَّاجِ، عَنْ زَيْدِ بْنِ جُبَيْرٍ، عَنْ خَشْفِ بْنِ مَالِكٍ قَالَ: سَمِعْتُ ابْنَ مَسْعُودٍ قَالَ: قَضَى رَسُولُ اللهِ ﷺ فِي دِيَةِ الْخَطَإِ عِشْرِينَ ابْنَةَ مَخَاضٍ، وعِشْرِينَ بَنِي مَخَاضٍ ذُكُورًا، وعِشْرِينَ بِنْتَ لَبُونٍ وعِشْرِينَ جَذَعَةً وعِشْرِينَ حِقَّةً.

وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو

حَدَّثَنَا أَبُو هِشَامٍ الرِّفَاعِيُّ: حَدَّثَنَا ابْنُ أَبِي زَائِدَةَ وأَبُو خَالِدٍ الأَحْمَرُ عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ مَسْعُودٍ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ هٰذَا الوَجْهِ. وقَدْ رُوِيَ عَنْ عَبْدِ اللهِ مَوْقُوفًا. وقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هٰذَا. وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ، وقَدْ أَجْمَعَ أَهْلُ الْعِلْمِ عَلَى أَنَّ الدِّيَةَ تُؤْخَذُ فِي ثَلَاثِ سِنِينَ فِي كُلِّ سَنَةٍ ثُلُثُ الدِّيَةِ، ورَأَوْا أَنَّ دِيَةَ الخَطَإِ عَلَى العَاقِلَةِ ورَأَى

the near relatives of a man, on the side of his father. This is the view of Mālik and Ash-Shāfi'ī. Some of them said the blood-money is due from men, not women or children of a tribe. Each man among them pays a quarter of a Dīnār – and some of them said half a Dīnār – to complete the blood-money. Otherwise the nearest of them in relation are required to pay it.

بَعْضُهُمْ أَنَّ العَاقِلَةَ قَرَابَةُ الرَّجُلِ مِنْ قِبَلِ أَبِيهِ وَهُوَ قَوْلُ مَالِكٍ والشَّافِعِيِّ وقَالَ بَعْضُهُمْ: إِنَّمَا الدِّيَةُ عَلَى الرِّجَالِ دُونَ النِّسَاءِ والصِّبْيَانِ مِنَ العَصَبَةِ ويُحَمَّلُ كُلُّ رَجُلٍ مِنْهُمْ رُبْعَ دِينَارٍ وقَدْ قَالَ بَعْضُهُمْ إِلَى نِصْفِ دِينَارٍ فَإِنْ تَمَّتِ الدِّيَةُ وإِلَّا نُظِرَ إِلَى أَقْرَبِ القَبَائِلِ مِنْهُمْ فأُلْزِمُوا ذَلِكَ.

تخريج: [إسناده ضعيف] وأخرجه النسائي: ٨/ ٤٣، ٤٤، ح: ٤٨٠٦ (القسامة، باب ذكر أسنان دية الخطأ) عن علي بن سعيد وأبوداود، ح: ٤٥٤٥، وابن ماجه، ح: ٢٦٣١ من حديث الحجاج بن أرطاة به وهو مدلس وضعيف وعنعن، انظر نيل المقصود، ح: ٤٤١١ ٥ وفي الباب عن عبدالله بن عمرو [يأتي: ١٣٨٧]

Comments:

'Āqil' means blood money and *'Āqilah'* means the one who bears blood-money or who pays the blood money. *'Āqil'* also means to stop or defend and safeguard. As *Āqilah* defends the murderer and pays on his behalf that is why the one who pays blood-money is called *Āqilah*. (For more details see *Al-Mughnī* v. 12. p. 39-41.) according to Imām Abū Ḥanīfah, for a deliberate murder, blood money must be paid within three years. *Al-Mughnī*. v. 12 p. 13.)

1387. 'Amr bin Shu'aib narrated from his father, from his grandfather that the Prophet ﷺ said: "Whoever kills [a believer] deliberately, he is handed ouer to the guardians of the one killed. If they wish to, they have him killed, and if they wish to, they take the blood-money. That is thirty *Ḥiqqah*, thirty *Jadha'ahs* and forty pregnant camels.

Whatever (amount more) they require from him, than that is for them (if they choose)." That is because of the severity of the blood-money. (***Ḥasan***)

[Abū 'Eīsā said:] The *Ḥadīth* of 'Abdullāh bin 'Amr is a *Ḥasan Gharīb Ḥadīth*.

١٣٨٧ - **حَدَّثَنَا** أَحْمَدُ بْنُ سَعِيدٍ الدَّارِمِيُّ: حَدَّثَنَا حَبَّانُ [وَهُوَ ابْنُ هَلَالٍ]: حَدَّثَنَا مُحَمَّدُ بْنُ رَاشِدٍ: حَدَّثَنَا سُلَيْمَانُ بْنُ مُوسَى عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ قَالَ: «مَنْ قَتَلَ [مُؤْمِنًا] مُتَعَمِّدًا دُفِعَ إِلَى أَوْلِيَاءِ المَقْتُولِ، فَإِنْ شَاءُوا قَتَلُوا وَإِنْ شَاءُوا أَخَذُوا الدِّيَةَ وَهِيَ ثَلَاثُونَ حِقَّةً وثَلَاثُونَ جَذَعَةً وأَرْبَعُونَ خَلِفَةً ومَا صَالَحُوا عَلَيْهِ فَهُوَ لَهُمْ». وَذَلِكَ لِتَشْدِيدِ العَقْلِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللهِ بْنِ عَمْرٍو حَدِيثٌ حَسَنٌ غَرِيبٌ.

تخريج: [إسناده حسن] وأخرجه أبو داود، الديات، باب ولي العمد يأخذ الدية، ح:٤٥٠٦ وابن ماجه، ح:٢٦٢٦ من حديث محمد بن راشد به.

Comments:

There is a difference of opinion in the blood-money of a deliberate murder. According to 'Abdullāh bin 'Amr the blood-money of killing on purpose is thirty *Hiqqah*, thirty *Jadha'ah* and forty pregnant she camels. Imām Shafi'ī, Imām Muhammad bin Al-Hasan, 'Aṭā, 'Umar, Zaid, Abū Mūsā and Mughīrah have the same opinion. Imām Aḥmad's one opinion is also the same as mentioned above. Imām Zuhrī, Rabī'ah, Imām Mālik, Imām Abū Hanīfah and others have a different opinion. According to them blood-money of murder on purpose is twenty-five *Bint Mukhad*, twenty-five *Bint Labūn*, twenty five *Hiqqah*, and twenty five *Jādhīa'ah*. (*Al-Mughnī* v.12. p. 13.) This is also a notable second opinion of Imām Aḥmad.

Chapter 2. What Has Been Related About Blood-Money, How Many Dirham Is It?

(المعجم ٢) - بَابُ مَا جَاءَ فِي الدِّيَةِ كَمْ هِيَ مِنَ الدَّرَاهِمِ (التحفة ٢)

1388. 'Ikrimah narrated from Ibn 'Abbās that the Prophet ﷺ made the blood-money twelve thousand. (*Hasan*)

١٣٨٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هَانِىءٍ: حَدَّثَنَا مُحَمَّدُ بْنُ مُسْلِمٍ - هُوَ الطَّائِفِيُّ - عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ جَعَلَ الدِّيَةَ اثْنَى عَشَرَ أَلْفًا.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، الديات، باب دية الخطإ، ح:٢٦٢٩ عن محمد ابن بشار به وضعفه النسائي.

1389. (Another chain) from 'Ikrimah from the Prophet ﷺ and it is similar but he did not mention "from Ibn 'Abbās" in it. (*Hasan*)

There is much more criticism than this for (this) narration of Ibn 'Uyainah.

[Abū 'Eīsā said:] We do not know anyone who mentioned "from Ibn 'Abbās" in this narration except for Muhammad bin Muslim.

This *Hadīth* is acted upon according to some of the people of

١٣٨٩ - حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ الْمَخْزُومِيُّ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو ابْنِ دِينَارٍ، عَنْ عِكْرِمَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ وَلَمْ يَذْكُرْ فِيهِ عَنِ ابْنِ عَبَّاسٍ. وَفِي حَدِيثِ ابْنِ عُيَيْنَةَ كَلَامٌ أَكْثَرُ مِنْ هٰذَا.

[قَالَ أَبُو عِيسَى]: وَلَا نَعْلَمُ أَحَدًا يَذْكُرُ [فِي] هٰذَا الْحَدِيثِ، عَنِ ابْنِ عَبَّاسٍ غَيْرَ مُحَمَّدِ بْنِ مُسْلِمٍ وَالْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ وهُوَ قَوْلُ أَحْمَدَ

وإِسْحَاقَ. وَرَأَى بَعْضُ أَهْلِ الْعِلْمِ الدِّيَةَ عَشْرَةَ آلَافٍ وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وأَهْلِ الْكُوفَةِ. وقَالَ الشَّافِعِيُّ: لَا أَعْرِفُ الدِّيَةَ إِلَّا مِنَ الْإِبِلِ، وَهِيَ مائةٌ مِنَ الْإِبِلِ [أَوْ قِيمَتُهَا].

knowledge. It is the view of Aḥmad and Isḥāq. Some of the people of knowledge held the view that blood-money is ten thousand, and this is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah. Ash-Shāfi'ī said: "I do not know of blood-money except from camels, and it is one hundred camels [or their value]."

تخريج: [حسن] وأخرجه أبو داود، الديات، باب الدية كم هي؟، ح:٤٥٤٦ (ب) من حديث سفيان بن عيينة به.

Comments:

According to the opinion of Imām Shafi'ī, Ṭāwūs and Ibn Mundhir blood-money is only in the form of camels. One opinion of Imām Aḥmad is the same. According to Imām Ath-Thawrī, Imām Abū Ḥanīfah and others the blood-money is twelve thousand Dirham. One opinion of Imām Shāfi'ī is the same. (*Al-Mughnī* v. 2 p. 6-8.)

(المعجم ٣) - بَابُ مَا جَاءَ فِي الْمُوضِحَةِ (التحفة ٣)

Chapter 3. What Has Been Related About the *Mawāḍiḥ*[1]

١٣٩٠ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ: حَدَّثَنَا حُسَيْنٌ الْمُعَلِّمُ عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ قَالَ: «فِي الْمَوَاضِحِ خَمْسٌ خَمْسٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ أَنَّ فِي الْمُوضِحَةِ خَمْسًا مِنَ الْإِبِلِ.

1390. 'Amr bin Shu'aib narrated from his father, from his grandfather that the Prophet ﷺ said: "Regarding the *Mawāḍiḥ*; five, five." [2] (***Hasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge. This is the view of Sufyān Ath-Thawrī, Ash-Shāfi'ī, Aḥmad and Isḥāq: Five camles are due in the case of a bone-exposing wound.

تخريج: [إسناده حسن] وأخرجه أبو داود، الديات، باب ديات الأعضاء، ح:٤٥٦٦ والنسائي، ح:٤٨٥٦ من حديث حسين المعلم به وصححه ابن الجارود، ح:٧٨٥.

[1] Wounds that expose a bone.

[2] "That is, five camels for every one of them." (*Tuḥfat Al-Aḥwadhī*)

Comments:

The blood-money for a wound by which the whiteness of the bone is exposed is five camels. It is agreed upon provided the wounded person is a male. The blood money of a female's wound is half. This is the view of Imām Shāfi'ī.

Chapter 4. What Has Been Related About Blood-Money For Fingers

(المعجم ٤) - بَابُ مَا جَاءَ فِي دِيَةِ الْأَصَابِعِ (التحفة ٤)

1391. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "The blood-money for the fingers on the hands and (the toes of) the feet is the same: Ten camels for each finger." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Mūsā and 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth* from this route. This is acted upon according to the people of knowledge, and it is the view of Sufyān Ath-Thawrī, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

١٣٩١ - حَدَّثَنَا أَبُو عَمَّارٍ: حَدَّثَنَا الْفَضْلُ ابْنُ مُوسَىٰ عَنِ الْحُسَيْنِ بْنِ وَاقِدٍ، عَنْ يَزِيدَ [بْنِ عَمْرٍو] النَّحْوِيِّ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «دِيَةُ أَصَابِعِ الْيَدَيْنِ وَالرِّجْلَيْنِ سَوَاءٌ عَشَرَةٌ مِنَ الْإِبِلِ لِكُلِّ أُصْبعٍ».

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنْ أَبِي مُوسَى وعَبْدِ اللهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ وَبِهِ يَقُولُ سُفْيَانُ الثَّوْرِيُّ والشَّافِعِيُّ وأَحْمَدُ وإِسْحَاقُ.

تخريج: [إسناده صحيح] وأخرجه أبو داود (أيضًا)، ح:٤٥٦٠، ٤٥٦١ من حديث يزيد النحوي به مختصرًا، وصححه ابن حبان، ح:١٥٢٨ * وفي الباب عن أبي موسى [أبو داود، ح:٤٥٥٦] وعبدالله بن عمرو [أبو داود، ح:٤٥٦٢].

1392. Ibn 'Abbās narrated that the Prophet ﷺ said: "These and these are the same," referring to the little finger and the thumb. (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٣٩٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ ومُحَمَّدُ بْنُ جَعْفَرٍ قَالَا: حَدَّثَنَا شُعْبَةُ عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «هَذِهِ وَهَذِهِ سَواءٌ». يَعْنِي الخِنْصَرَ والإِبْهَامَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الديات، باب دية الأصابع، ح:٢٦٥٢ عن محمد بن بشار، والبخاري، ح:٦٨٩٥ من حديث شعبة به.

Comments:

The blood-money for a finger or a toe is ten camels. One hundred camels is the blood-money for ten fingers or ten toes. When a fingertip is cut, a third of the blood-money of a finger is paid except with the fingertip of the thumb. This is because it has only two parts, and as such, a half is paid. There is no difference between the fingers (of the hand) and the toes (of the feet). (*Tuḥfat Al-Aḥwadhī*).

Chapter 5. What Has Been Related About Pardoning

(المعجم ٥) - بَابُ مَا جَاءَ فِي الْعَفْوِ

(التحفة ٥)

1393. Abū As-Safar said: "A man from the Quraish broke a tooth of a man from the *Anṣār*. So he appealed to Mu'āwiyah against him. He said to Mu'āwiyah: 'O Commander of the Believers! This person broke one of my teeth.' Mu'āwiyah said: 'We will try to get satisfaction for you.' And the other person insisted that Mu'āwiyah get him to agree [but he was not satisfied]. So Mu'āwiyah said to him: 'It is up to your companion.' Abū Ad-Dardā' was sitting with him, so Abū Ad-Dardā' said: 'I heard the Messenger of Allāh ﷺ saying [he said: 'My ears heard and my heart remembered]: "There is no man who is struck in his body and he forgives for it, except that Allāh raises him a level and removes a sin from him."' The *Anṣārī* said: 'Did you hear that from the Messenger of Allāh ﷺ?' He said: "My ears heard it and my heart remembered it.' He said: 'Then I will leave it for him.' Mu'āwiyah said: 'Surely you should not suffer.' So he ordered that he be given some wealth." (*Ḍa'īf*)

١٣٩٣ - حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا يُونُسُ بْنُ أَبِي إِسْحَاقَ: حَدَّثَنَا أَبُو السَّفَرِ قَالَ: دَقَّ رَجُلٌ مِنْ قُرَيْشٍ سِنَّ رَجُلٍ مِنَ الْأَنْصَارِ فاسْتَعْدَى عَلَيْهِ مُعَاوِيَةَ فَقَالَ لِمُعَاوِيَةَ: يَا أَمِيرَ الْمُؤْمِنِينَ! إِنَّ هٰذَا دَقَّ سِنِّي. فَقَالَ مُعَاوِيَةُ: إِنَّا سَنُرْضِيكَ، وأَلَحَّ الآخَرُ عَلَى مُعَاوِيَةَ فَأَبْرَمَهُ [فَلَمْ يَرْضَهُ]، فَقَالَ لَهُ مُعَاوِيَةُ: شَأْنَكَ بِصَاحِبِكَ - وأَبُو الدَّرْداءِ جَالِسٌ عِنْدَهُ - فَقَالَ أَبُو الدَّرْدَاءِ: سَمِعْتُ رَسُولَ اللهِ ﷺ [سَمِعَتْهُ أُذُنَايَ وَوَعَاهُ قَلْبِي] يَقُولُ: «مَا مِنْ رَجُلٍ يُصَابُ بِشَيْءٍ فِي جَسَدِهِ فَيَتَصَدَّقُ بِهِ إِلَّا رَفَعَهُ اللهُ بِهِ دَرَجَةً وحَطَّ عَنْهُ بِهِ خَطِيئَةً». فَقَالَ الْأَنْصَارِيُّ: [أَ] أَنْتَ سَمِعْتَهُ مِنْ رَسُولِ اللهِ ﷺ؟ قَالَ: سَمِعَتْهُ أُذُنَايَ وَوَعَاهُ قَلْبِي. قَالَ: فَإِنِّي أَذَرُهَا لَهُ. قَالَ مُعَاوِيَةُ: لَا جَرَمَ لَا أُخَيِّبُكَ. فَأَمَرَ لَهُ بِمَالٍ.

[Abū 'Eīsā said:] This *Ḥadīth* is

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الوَجْهِ ولَا أَعْرِفُ لِأَبِي السَّفَرِ سَمَاعًا مِنْ أَبِي الدَّرْدَاءِ. وأَبُو السَّفَرِ

Gharīb, we do not know of it except from this route. And I do not know that Abū As-Safar heard from Abū Ad-Dardā'. Abū As-Safar's name is Sa'eed bin Aḥmad, and they say Ibn Yuḥmid Ath-Thawrī.

اسْمُهُ سَعِيدُ بْنُ أَحْمَدَ. ويُقَالُ ابْنُ يُحْمِدَ الثَّوْرِيُّ.

تخريج: [إسناده ضعيف] لانقطاعه، وأخرجه ابن ماجه، الديات، باب العفو في القصاص، ح: ٢٦٩٣ من حديث يونس به * أبو السفر سعيد بن يحمد ثقة لكنه أرسل عن أبي الدرداء كما في التهذيب وغيره.

Comments:

A wounded person has the right of taking blood-money, compensation, retaliation in kind or forgiving. Forgiving someone is a deed of great reward, and the *Ansārī* pardoned for the sake of a better reward from Allāh.

Chapter 6. What Has Been Related About One Whose Head Was Fractured With A Rock

(المعجم ٦) - بَابُ مَا جَاءَ فِيمَنْ رُضِخَ رَأْسُهُ بِصَخْرَةٍ (التحفة ٦)

1394. Anas narrated that a girl went out in Al-Madīnah wearing some silver ornaments. A Jew grabbed her and fractured her head with a stone, and he took the jewelry she had on. He said: "She was found with some spark of life in her, and was brought to the Prophet ﷺ and he said: 'Did such and such person strike you?' She nodded 'no' with her head. He said: 'Such and such?' until he named the Jew and she nodded 'yes' with her head." He said: "He was brought and recognized so the Messenger of Allāh ﷺ ordered that his head be crushed between two stones." (***Ṣaḥīḥ***)

١٣٩٤ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا هَمَّامٌ عَنْ قَتَادَةَ، عَنْ أَنَسٍ. قَالَ: خَرَجَتْ جَارِيَةٌ عَلَيْهَا أَوْضَاحٌ فَأَخَذَهَا يَهُودِيٌّ فَرَضَخَ رَأْسَهَا بِحَجَرٍ وَأَخَذَ مَا عَلَيْهَا مِنَ الْحُلِيِّ قَالَ: فَأُدْرِكَتْ وَبِهَا رَمَقٌ فَأُتِيَ بِهَا النَّبِيُّ ﷺ فَقَالَ: «مَنْ قَتَلَكِ أَفُلَانٌ؟» فَقَالَتْ بِرَأْسِهَا لَا. قَالَ: «فَفُلَانٌ؟» حَتَّى سُمِّيَ الْيَهُودِيُّ فَقَالَتْ بِرَأْسِهَا أَيْ نَعَمْ. قَالَ: فَأُخِذَ فَاعْتَرَفَ فَأَمَرَ بِهِ رَسُولُ اللهِ ﷺ فَرُضِخَ رَأْسُهُ بَيْنَ حَجَرَيْنِ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of the people of knowledge. It is the view of Aḥmad and Isḥāq. Some of the people of

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَا قَوَدَ إِلَّا بِالسَّيْفِ.

knowledge said that there is no retaliation except with the sword.

تخريج: متفق عليه، وأخرجه البخاري، الخصومات، باب ما يذكر في الإشخاص والخصومة بين المسلم واليهود، ح:٢٤١٣ ومسلم، ح:١٦٧٢ من حديث همام به.

Comments:

In the view of most of the *A'immah* a murderer should be killed with the same weapon by which he killed. This is an accepted and correct view. According to Imām Abū Ḥanīfah, and the scholars of Al-Kūfah, killing in retaliation is only with a sword or anything which kills instantly. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 305.307.)

Chapter 7. What Has Been Related About The Gravity Of Killing A Believer

(المعجم ٧) - بَابُ مَا جَاءَ فِي تَشْدِيدِ قَتْلِ الْمُؤْمِنِ (التحفة ٧)

1395. 'Abdullāh bin 'Amr narrated that the Prophet ﷺ said: "The world ceases to exist is less significant to Allāh than killing a Muslim man." (***Ḥasan***)

(Another chain) from 'Abdullāh bin 'Amr, and it is similar but he did not narrate it in *Marfū'* form.

[Abū 'Eīsā said:] This is more correct than the narration of Ibn Abī 'Adī (a narrator in no. 1395).

[He said:] There are narrations on this topic from Sa'eed, Ibn 'Abbās, Abū Sa'eed, Abū Hurairah, 'Uqbah bin 'Āmir, [Ibn Mas'ūd] and Buraidah.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Abdullāh bin 'Amr was reported like this by Ibn Abī 'Adī from Shu'bah, from Ya'lā bin 'Aṭā' [from his father, from 'Abdullāh bin 'Amr, from the Prophet ﷺ. And Muḥammad bin Ja'far as well as others, reported it from Shu'bah, from Ya'lā bin 'Aṭā'], so he did not narrate it in *Marfū'* form. Similarly,

١٣٩٥ - حَدَّثَنَا أَبُو سَلَمَةَ يَحْيَى بْنُ خَلَفٍ وَمُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ بَزِيعٍ قَالَا: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو أَنَّ النَّبِيَّ ﷺ قَالَ: «لَزَوَالُ الدُّنْيَا أَهْوَنُ عَلَى اللهِ مِنْ قَتْلِ رَجُلٍ مُسْلِمٍ».

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ يَعْلَى بْنِ عَطَاءٍ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو نَحْوَهُ وَلَمْ يَرْفَعْهُ.

[قَالَ أَبُو عِيسَى:] وَهٰذَا أَصَحُّ مِنْ حَدِيثِ ابْنِ أَبِي عَدِيٍّ [قَالَ:] وَفِي الْبَابِ عَنْ سَعْدٍ وابْنِ عَبَّاسٍ وَأَبِي سَعِيدٍ وَأَبِي هُرَيْرَةَ وَعُقْبَةَ بْنِ عَامِرٍ [وَابْنِ مَسْعُودٍ] وَبُرَيْدَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللهِ بْنِ عَمْرٍو، هٰكَذَا رَوَاهُ ابْنُ أَبِي عَدِيٍّ عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ [عَنْ أَبِيهِ، عَنْ عَبْدِاللهِ بْنِ

عَمْرٍو عَنِ النَّبِيِّ ﷺ وَرَوَى مُحَمَّدُ بْنُ جَعْفَرٍ وَغَيْرُ واحِدٍ، عَنْ شُعْبَةَ، عَنْ يَعْلَى بْنِ عَطَاءٍ] فَلَمْ يَرْفَعْهُ وَهَكَذا رَوَى سُفْيَانُ الثَّوْرِيُّ عَنْ يَعْلَى بنِ عَطَاءٍ مَوْقوفًا. وَهذَا أَصَحُّ مِنَ الْحَدِيثِ الْمَرْفُوعِ.

Sufyān Ath-Thawrī reported it from Ya'lā bin 'Aṭā' in *Mawqūf* form. This is more correct than the *Marfū' Ḥadīth*.

تخريج: [حسن] وأخرجه النسائي، تحريم الدم، باب تعظيم الدم، ح:٣٩٩٢ من حديث محمد بن أبي عدي به * وفي الباب عن سعد [ابن ماجه، ح:٣٩٤١] وابن عباس [يأتي:٣٠٢٩ وابن ماجه، ح:٢٦٢١] وأبي سعيد [يأتي:١٣٩٨] وأبي هريرة [يأتي:١٣٩٨] وعقبة بن عامر [ابن ماجه، ح:٢٦١٨] وابن مسعود [يأتي:١٩٨٣، ٢٦٣٥] وبريدة [النسائي، ح:٤٧٣٥].

Comments:

Allāh created, this world as a test and trial for humans. Murder of a human being is actually a denial of the reality.

Chapter 8. Judgements For Cases Involving Bloodshed

(المعجم ٨) - بَابُ الْحُكْمِ فِي الدِّمَاءِ
(التحفة ٨)

١٣٩٦ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا شُعْبَةُ عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَوَّلَ مَا يُحْكَمُ بَيْنَ العِبَادِ فِي الدِّمَاءِ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللهِ حَدِيثٌ حَسَنٌ صَحِيحٌ، وَهٰكَذَا رَوَى غَيْرُ وَاحِدٍ عَنِ الْأَعْمَشِ مَرْفُوعًا وَرَوَى بَعْضُهُمْ عَنِ الْأَعْمَشِ ولَمْ يَرْفَعُوهُ.

حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَوَّلَ مَا يُحْكَمُ بَيْنَ الْعِبَادِ فِي الدِّمَاءِ»

1396. 'Abdullāh narrated that the Messenger of Allāh ﷺ said: "Indeed the first cases to be judged between the people are those of bloodshed." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] The *Ḥadīth* of 'Abdullāh is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is how it was reported by more than one narrator, from Al-A'mash in *Marfū'* form. Some of them reported it from Al-A'mash without narrating it *Marfū'*.

(Another chain) from 'Abdullāh who narrated that the Messenger of Allāh ﷺ said: "Indeed the first cases to be judged between the worshippers are those of bloodshed."

تخريج: متفق عليه، ومسلم، القسامة والمحاربين، باب المجازاة بالدماء في الآخرة . . . إلخ، ح:١٦٧٨ من حديث شعبة، البخاري، ح:٦٥٣٣ من حديث الأعمش به.

1397. 'Abdullāh narrated that the Messenger of Allāh ﷺ said: "Indeed the first cases to be decided between the worshippers are those of bloodshed." (***Ṣaḥīḥ***)

١٣٩٧ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثنا وَكِيعٌ عَنِ الْأَعْمَشِ، عَنْ أَبِي وَائِلٍ، عَنْ عَبْدِ اللهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَوَّلَ مَا يُقْضَى بَيْنَ العِبَادِ فِي الدِّمَاءِ».

تخريج: متفق عليه، انظر الحديث السابق، ورواه مسلم من حديث وكيع به.

Comments:

On the Day of Judgement, the first thing from the rights of Allāh, performance of the obligatory prayers, will be accounted for, and from the rights of human beings murder will be the first.

1398. Abul-Ḥakam Al-Bajalī said: "I heard Abū Sa'eed Al-Khudrī and Abū Hurairah mentioning from the Messenger of Allāh ﷺ that he said: 'If the inhabitants of the heavens and the inhabitants of the earth all took part in shedding the blood of a believer, then Allāh would cast them (all) in the Fire." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*. [Abul-Ḥakam Al-Bajalī is 'Abdur-Raḥmān bin Abī Nu'aym Al-Kūfī].

١٣٩٨ - حَدَّثَنَا الْحُسَيْنُ بْنُ حُرَيْثٍ: حَدَّثَنَا الْفَضْلُ بْنُ مُوسَى عَنِ الْحُسَيْنِ بْنِ وَاقِدٍ، عَنْ يَزِيدَ الرَّقَاشِيِّ: حَدَّثَنَا أَبُو الْحَكَمِ البَجَلِيُّ قَالَ: سَمِعْتُ أَبَا سَعِيدٍ الْخُدْرِيَّ وَأَبَا هُرَيْرَةَ يَذْكُرَانِ عَنْ رَسُولِ اللهِ ﷺ قَالَ: «لَوْ أَنَّ أَهْلَ السَّمَاءِ وَأَهْلَ الْأَرْضِ اشْتَرَكُوا فِي دَمِ مُؤْمِنٍ لَأَكَبَّهُمُ اللهُ فِي النَّارِ».

[قَالَ أَبُو عِيسَى]: هٰذَا حَدِيثٌ غَرِيبٌ. [وَأَبُو الْحَكَمِ البَجَلِيُّ هُوَ عَبْدُالرَّحْمٰنِ بْنُ أَبِي نُعْمٍ الْكُوفِيُّ].

تخريج: [**ضعيف**] * يزيد الرقاشي ضعيف وله شواهد ضعيفة عند البيهقي: ٨/ ٢٢ وغيره.

Comments:

Murder of a Muslim is so great a sin that if a group of people commit a murder, the whole group will be punished. Each one of them will pay the full blood-money or all of them will be killed in retaliation.

Chapter 9. What Has Been Related About A Man Who Kills His Son: Is He To Suffer Requital For Him Or Not?

(المعجم ٩) - بَابُ مَا جَاءَ فِي الرَّجُلِ يَقْتُلُ ابْنَهُ يُقَادُ مِنْهُ أَمْ لَا؟ (التحفة ٩)

1399. Surāqah bin Mālik bin [Ju'shum] narrated: "The Messenger of Allāh ﷺ judged that the son is to suffer retaliation for

١٣٩٩ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَيَّاشٍ: حَدَّثَنَا الْمُثَنَّى بْنُ الصَّبَّاحِ عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ

جَدِّهِ، عَنْ سُرَاقَةَ بْنِ مَالِكِ بْنِ [جُعْشُمٍ] قَالَ: حَضَرْتُ رَسُولَ اللهِ ﷺ يُقِيدُ الأَبَ مِنِ ابْنِهِ وَلَا يُقِيدُ الابْنَ مِنْ أَبِيهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ سُرَاقَةَ إِلَّا مِنْ هٰذَا الْوَجْهِ وَلَيْسَ إِسْنَادُهُ بِصَحِيحٍ رَوَاهُ إِسْمَاعِيلُ بْنُ عَيَّاشٍ عَنِ الْمُثَنَّى بْنِ الصَّبَّاحِ وَالْمُثَنَّى بْنُ الصَّبَّاحِ يُضَعَّفُ فِي الْحَدِيثِ وَقَدْ رَوَى هٰذَا الْحَدِيثَ أَبُو خَالِدٍ الأَحْمَرُ عَنِ الْحَجَّاجِ [بْنِ أَرْطَاةَ]، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، عَنْ عُمَرَ عَنِ النَّبِيِّ ﷺ وَقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنْ عَمْرِو بْنِ شُعَيْبٍ مُرْسَلًا، وَهٰذَا حَدِيثٌ فِيهِ اضْطِرَابٌ وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ أَنَّ الأَبَ إِذَا قَتَلَ ابْنَهُ لَا يُقْتَلُ بِهِ. وَإِذَا قَذَفَ ابْنَهُ لَا يُحَدُّ.

[killing] his father, but the father is not to suffer retaliation for [killing] his son." (***Ḍa'īf***)

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* as a narration of Surāqah except from this route. Its chain is not correct. Ismā'īl bin 'Ayyāsh reported it from Al-Muthanna bin Aṣ-Ṣabbāḥ, and Al-Muthanna bin Aṣ-Ṣabbaḥ has been graded weak in *Ḥadīth*. Abū Khālid bin Al-Aḥmar reported this *Ḥadīth* from Al-Ḥajjāj [bin Arṭāh], from 'Amr bin Shu'bah, from his father, from his grandfather, from 'Umar, from the Prophet ﷺ. This *Ḥadīth* has also been reported from Shu'bah in *Mursal* form. There is confusion (*Iḍṭirāb*) in the narration of this *Ḥadīth*.

This is acted upon according to the people of knowledge; the father is not to be killed for killing his son, and when he falsely accuses his son, he is not punished legally.

تخريج: [**إسناده ضعيف**] * المثنى والحجاج ضعيفان.

Comments:

Apparently the father is a cause of a son's existence in this world; therefore, the son should not become the reason of the father's demise. Imām Rabī'ah, Ath-Thawrī, Al-Awzā'ī, Ash-Shāfi'ī, Aḥmad, Isḥāq, and Abū Ḥanīfah all have the same point of view. (*Al-Mughnī* v. 1 p. 483.)

١٤٠٠ - **حَدَّثَنَا** أَبُو سَعِيدٍ الأَشَجُّ: حَدَّثَنَا أَبُو خَالِدٍ الأَحْمَرُ عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ، عَنْ عُمَرَ بْنِ الْخَطَّابِ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «لَا يُقَادُ الْوَالِدُ بِالْوَلَدِ».

1400. 'Umar bin Al-Khaṭṭāb narrated that the Messenger of Allāh ﷺ said: "The father does not suffer retaliation for [killing] the son." (***Ḍa'īf***)

تخريج: [**إسناده ضعيف**] وأخرجه ابن ماجه، الديات، باب: لا يقتل الوالد بولده،

ح:٢٦٦٢ من حديث أبي خالد الأحمر به، ورواه محمد بن عجلان عن عمرو بن شعيب به وللحديث شواهد كثيرة.

1401. Ibn 'Abbās narrated that the Prophet ﷺ said: 'The *Ḥudūd* are not carried in the *Masjid*, and the father is not killed for the son." (*Ḍa'īf*)

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* to be *Marfū'* except through the narration of Ismā'īl bin Muslim. Some of the people of knowledge have criticized Ismā'īl bin Muslim due to his memory.

١٤٠١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ إِسْمَاعِيلَ بْنِ مُسْلِمٍ، عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا تُقَامُ الْحُدُودُ فِي الْمَسَاجِدِ وَلَا يُقْتَلُ الوَالِدُ بِالْوَلَدِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ بِهٰذَا الْإِسْنَادِ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ إِسْمَاعِيلَ ابْنِ مُسْلِمٍ. وإِسْمَاعِيلُ بْنُ مُسْلِمٍ الْمَكِّيُّ [قَدْ] تَكَلَّمَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ مِنْ قِبَلِ حِفْظِهِ.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، أيضًا، ح:٢٦٦١ من حديث إسماعيل بن مسلم به وهو ضعيف وللحديث شواهد ضعيفة، انظر الحديث السابق.

Comments:

This narration, according to its chain is a weak narration, but its subject is correct and is in accordance with the Islamic Law. The purpose of killing in retaliation is to make a lesson for others so that nobody should dare to commit such a heinous crime. If the love and relationship of being a father did not stop him from murdering then even killing in retaliation will not work.

Chapter 10. What Has Been Related About 'The Blood Of A Muslim Man Is Not Lawful Except For One Of Three Cases'

(المعجم ١٠) - بَابُ مَا جَاءَ لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ إِلَّا بِإِحْدَى ثَلَاثٍ (التحفة ١٠)

1402. 'Abdullāh bin Mas'ūd narrated that the Messenger of Allāh ﷺ said: "The blood of a Muslim man, who testifies that none has the right to be worshipped but Allāh, and that I am the Messenger of Allāh, is not lawful except for one of three cases: The (previously married or) married adulterer, a life for a life, and the one who leaves his religion and parts from the *Jamā'ah* (the

١٤٠٢ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ عَبْدِ اللهِ بْنِ مُرَّةَ عَنْ مَسْرُوقٍ، عَنْ عَبْدِ اللهِ بْنِ مَسْعُودٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللهُ وأَنِّي رَسُولُ اللهِ إِلَّا بِإِحْدَى ثَلَاثٍ: الثَّيِّبُ الزَّانِيُّ والنَّفْسُ بِالنَّفْسِ والتَّارِكُ لِدِينِهِ المُفَارِقُ لِلْجَمَاعَةِ» [قَالَ:] وَفِي الْبَابِ عَنْ عُثْمَانَ وعَائِشَةَ وابْنِ عَبَّاسٍ.

community of Muslims)." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Uthmān, 'Āishah and Ibn 'Abbās.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn Mas'ūd is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ مَسْعُودٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، القسامة والمحاربين، باب ما يباح به دم المسلم، ح:١٦٧٦ من حديث أبي معاوية الضرير والبخاري، ح:٦٨٧٨ من حديث الأعمش به * وفي الباب عن عثمان [يأتي:٢١٥٨] وعائشة [أبو داود، ح:٤٣٥٣] وابن عباس [ابن ماجه، ح:٢٥٣٩].

Comments:

According to the Qur'ān and various narrations of the Prophet ﷺ, and the consensus of the Muslim *Ummah*, killing a Muslim brother is one of the greatest sins. There are only three conditions which allow the killing of a Muslim. These three conditions have been mentioned in this narration. (*Al-Mughnī*. v. 11. p.443-444.)

Chapter 11. What Has Been Related About One Who Kills A *Mu'āhid*[1]

(المعجم ١١) - بَابُ مَا جَاءَ فِيمَنْ يَقْتُلُ نَفْسًا مُعَاهِدًا (التحفة ١١)

1403. Abū Hurairah narrated that the Prophet ﷺ said: "Indeed, whoever kills a *Mu'āhid* that has a covenant from Allāh and a covenant from His Messenger ﷺ, then he has violated the covenant with Allāh and the covenant of His Messenger, so he shall not smell the fragrance of Paradise; even though its fragrance can be sensed from the distance of seventy autumns." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Bakrah.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*, it has been reported through

١٤٠٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا [مَعْدِيُّ] بْنُ سُلَيْمَانَ [هُوَ الْبَصْرِيُّ] عَنِ ابْنِ عَجْلَانَ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «أَلَا مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً لَهُ ذِمَّةُ اللهِ وذِمَّةُ رَسُولِهِ فَقَدْ أَخْفَرَ بِذِمَّةِ اللهِ فَلَا يَرَحْ رَائِحَةَ الْجَنَّةِ، وإِنَّ رِيحَهَا لَتُوجَدُ مِنْ مَسِيرَةِ سَبْعِينَ خَرِيفًا».

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي بَكْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ

[1] "One who has a treaty with the *Imām* to not fight, whether he is a *Dhimmī* or not." *Tuḥfat Al-Aḥwadhī*.

more than one route from Abū Hurairah, from the Prophet ﷺ.

تخريج: [صحيح] وأخرجه ابن ماجه، الديات، باب من قتل معاهدًا، ح:٢٦٨٧ عن محمد ابن بشار به وسنده ضعيف وللحديث شواهد عند البخاري، ح:٣١٦٦، ٦٩١٤ وغيره * وفي الباب عن أبي بكرة [أبو داود، ح: ٢٧٦٠].

Comments:

The fragrance of the Paradise will be sensed by the people in proportion of their good deeds done in this world, and according to their status in the Hereafter. The least distance from where it could be sensed is forty years, and the maximum one thousand years. (*Tuḥfat Al-Aḥwadhī* v. 2. p.308.)

Chapter 12.

(المعجم ١٢) - **بَابٌ:** (التحفة ١٢)

1404. Ibn 'Abbās narrated: "The Prophet ﷺ assigned the same blood-money for the two 'Āmiris[1] as that of the Muslims, and they had a covenant from the Messenger of Allāh ﷺ." ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except from this route, and [one of the narrators] Abū Sa'd al-Baqqāl's name is Sa'eed bin Al-Marzubān.

١٤٠٤ - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا يَحْيَى ابْنُ آدَمَ عَنْ أَبِي بَكْرِ بْنِ عَيَّاشٍ، عَنْ أَبِي سَعْدٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ وَدَى العَامِرِيَّيْنِ بِدِيَةِ الْمُسْلِمِينَ وكَانَ لَهُمَا عَهْدٌ مِنْ رَسُولِ اللهِ ﷺ.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الوَجْهِ وأَبُو سَعْدٍ البَقَّالُ اسْمُهُ سَعِيدُ بْنُ المَرْزُبَانِ.

تخريج: [إسناده ضعيف] وأخرجه البيهقي:٨/ ١٠٢ من حديث أبي بكر بن عياش به نحو المعنى وقال: "البقال لا يحتج به" أبوسعد البقال ضعيف مدلس وأبوبكر بن عياش ضعيف من جهة حفظه.

Comments:

There is no killing in retaliation of the murder of a disbeliever; but the blood-money is to be paid.

[1] The two people killed by 'Amr bin 'Umayyah Al-Damrī. He was not aware of their covenant with the Messenger ﷺ. (*Tuḥfat Al-Aḥwadhī*).

Chapter 13. What Has Been Related About The Guardian Of One Who Was Killed Deciding Between *Qiṣāṣ* or Pardon

(المعجم ١٣) - بَابُ مَا جَاءَ فِي حُكْمِ وَلِيِّ الْقَتِيلِ فِي الْقِصَاصِ وَالْعَفْوِ

(التحفة ١٣)

1405. Abū Hurairah narrated: "When Allāh granted His Messenger ﷺ victory over Makkah, he stood (to deliver an address) among the people. He thanked and praised Allāh, then he said: 'And for whomever (one of his relatives) was killed, then he has two options to choose from: Either to pardon or that he be killed.'" ***(Ṣaḥīḥ)***

[He said:] There are narrations on this topic from Wā'il bin Ḥujr, Anas, Abū Shuraiḥ, and Khuwailid bin 'Amr.

١٤٠٥ - **حَدَّثَنَا** مَحْمُودُ بْنُ غَيْلَانَ وَيَحْيَى ابْنُ مُوسَى قَالَا: حَدَّثَنَا الوَلِيدُ بْنُ مُسْلِمٍ: حَدَّثَنَا الْأَوْزَاعِيُّ: حَدَّثَنِي يَحْيَى بْنُ أَبِي كَثِيرٍ: حَدَّثَنِي أَبُو سَلَمَةَ قَالَ: حَدَّثَنِي أَبُو هُرَيْرَةَ قَالَ: لَمَّا فَتَحَ اللهُ عَلَى رَسُولِهِ مَكَّةَ قَامَ فِي النَّاسِ فَحَمِدَ اللهَ وَأَثْنَى عَلَيْهِ ثُمَّ قَالَ: «وَمَنْ قُتِلَ لَهُ قَتِيلٌ فَهُوَ بِخَيْرِ النَّظَرَيْنِ إِمَّا أَنْ يَعْفُوَ وَإِمَّا أَنْ يَقْتُلَ» [قَالَ:] وَفِي الْبَابِ عَنْ وَائِلِ بْنِ حُجْرٍ وَأَنَسٍ وَأَبِي شُرَيْحٍ خُوَيْلِدِ بْنِ عَمْرٍو.

تخريج: متفق عليه، وأخرجه البخاري، كتاب في اللقطة، باب: كيف تعرف لقطة أهل مكة؟، ح:٢٤٣٤ عن يحيى بن موسى ومسلم، ح:١٣٥٥ من حديث الوليد به * وفي الباب عن وائل بن حجر [مسلم، ح:١٦٨٠] وأنس [ابن ماجه، ح:٢٦٩١] وأبي شريح خويلد بن عمرو [يأتي:١٤٠٦].

Comments:

In this narration, pardon means accepting blood-money instead of killing in retaliation. Sparing the murderer from death and accepting the blood-money is a kind of pardon.

1406. Abū Shuraiḥ Al-Ka'bī narrated that the Messenger of Allāh ﷺ said: "Indeed Allāh made Makkah sacred, it was not made sacred by the people. Whoever believes in Allāh and the Last Day, then let them not shed blood in it, nor cut down any of its trees. If one tries to make an excuse by saying: 'It was made lawful for the Messenger of Allāh ﷺ' then indeed Allāh made it lawful for me

١٤٠٦ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا ابْنُ أَبِي ذِئْبٍ: حَدَّثَنِي سَعِيدُ بْنُ أَبِي سَعِيدٍ الْمَقْبُرِيُّ عَنْ أَبِي شُرَيْحٍ الكَعْبِيِّ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِنَّ اللهَ حَرَّمَ مَكَّةَ وَلَمْ يُحَرِّمْهَا النَّاسُ. مَنْ كَانَ يُؤْمِنُ بِاللهِ وَالْيَوْمِ الآخِرِ فَلَا يَسْفِكَنَّ فِيهَا دَمًا وَلَا يَعْضِدَنَّ فِيهَا شَجَرًا فَإِنْ تَرَخَّصَ مُتَرَخِّصٌ. فَقَالَ أُحِلَّتْ لِرَسُولِ اللهِ ﷺ فَإِنَّ

but He did not make it lawful for the people, and it was only made lawful for me for an hour of a day. Then it is returned to being sacred until the Day of Judgement. Then, to you people of Khuzā'ah who killed this man from Hudhail: I am his *'Āqil*, so for whomever (one of his relatives) is killed after today, then his people have two options; either they have him killed, or they take the blood-money from him.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. It was also reported by Shaibān from Yaḥya bin Abī Kathīr and it is similar to this, and it was reported by Abū Shuraiḥ Al-Khuzā'ī from the Prophet ﷺ. But he said: "And for whomever (one of his relatives) was killed, then he may have him killed, or pardon him, or take the blood-money."

Some of the people of knowledge followed this, and it is the view of Aḥmad and Isḥāq.

اللهَ أَحَلَّهَا لِي ولَمْ يُحِلَّهَا لِلنَّاسِ وإِنَّمَا أُحِلَّتْ لِي سَاعَةً مِنْ نَهَارٍ ثُمَّ هِيَ حَرَامٌ إِلَى يَوْمِ القِيَامَةِ ثُمَّ إِنَّكُمْ مَعْشَرَ خُزاعَةَ قَتَلْتُمْ هٰذَا الرَّجُلَ مِنْ هُذَيْلٍ وإِنِّي عَاقِلُهُ فَمَنْ قُتِلَ لَهُ قَتِيلٌ بَعْدَ اليَوْمِ فَأَهْلُهُ بَيْنَ خِيرَتَيْنِ. إِمَّا أَنْ يَقْتُلُوا أَوْ يَأْخُذُوا العَقْلَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وحَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. ورَوَاهُ شَيْبَانُ أَيْضًا عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ مِثْلَ هٰذَا ورُوِيَ عَنْ أَبِي شُرَيْحٍ الخُزَاعِيِّ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ قُتِلَ لَهُ قَتِيلٌ فَلَهُ أَنْ يَقْتُلَ أَوْ يَعْفُوَ أَوْ يَأْخُذَ الدِّيَةَ». وذَهَبَ إِلَى هٰذَا بَعْضُ أَهْلِ العِلْمِ وَهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الديات، باب ولي العمد يأخذ الدية، ح:٤٥٠٤ من حديث يحيى القطان به ورواه البخاري، ح:١٠٤ ومسلم، ح:١٣٥٤ من حديث سعيد المقبري.

Comments:

This narration proves that the right of pardon, killing in retaliation or accepting the payment of blood-money is with the heirs. If one of them forgives the offender then killing in retaliation is cancelled, only blood-money will be taken.

1407. Abū Hurairah narrated: "A man was killed during the time of the Messenger of Allāh ﷺ, so the killer was brought to the man's guardian. The killer said: 'O Messenger of Allāh! By Allāh! I did not mean to kill him. So the

١٤٠٧ - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قُتِلَ رَجُلٌ عَلَى عَهْدِ رَسُولِ اللهِ ﷺ فَدُفِعَ القَاتِلُ إِلَى وَلِيِّهِ فَقَالَ القَاتِلُ. يَا رَسُولَ اللهِ! وَاللهِ مَا أَرَدْتُ قَتْلَهُ فَقَالَ رَسُولُ

Messenger of Allāh ﷺ said: 'Then if what he is saying is true, and you kill him, you would enter the Fire.' So he let the man go." He said: "His hands were bound behind him with a *Nis'ah*." He said: "So he left, dragging his *Nis'ah*." [He said:] "So he was called *'Dhan-Nis'ah'*." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [And *An-Nis'ah* is a rope.]

اللهِ ﷺ: «أَمَا إِنَّهُ إِنْ كَانَ [قَوْلُهُ] صَادِقًا فَقَتَلْتَهُ دَخَلْتَ النَّارَ» فَخَلَّى عَنْهُ الرَّجُلُ قَالَ: وكَانَ مَكْتُوفًا بِنِسْعَةٍ قَالَ: فَخَرَجَ يَجُرُّ نِسْعَتَهُ [قَالَ:] فَكَانَ يُسَمَّى ذَا النِّسْعَةِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. [والنِّسْعَةُ حَبْلٌ].

تخريج: [**صحيح**] وأخرجه أبو داود، الديات، باب الإمام يأمر بالعفو في الدم، ح:٤٤٩٨ والنسائي، ح:٤٧٢٦ وابن ماجه، ح:٢٦٩٠ من حديث أبي معاوية الضرير به وله شواهد عند مسلم وأبي داود، ح:٤٤٩٩ـ٤٥٠١ وغيرهما.

Comments:

If someone is killed and the intention of the killer was not to kill him but just to punish him physically, then it will be considered a killing by mistake. In case of killing by mistake, the punishment of killing in retaliation is unlawful. In this case, the heir of the murdered let the killer go.

Chapter 14. What Has Been Related About The Prohibition Of Mutilation

(المعجم ١٤) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ الْمُثْلَةِ (التحفة ١٤)

1408. Buraidah narrated from his father who said: "Whenever the Messenger of Allāh ﷺ dispatched a commander of an army he would exhort him personally; that he should have *Taqwā* of Allāh, and regarding those of the Muslims who are with him; that he should be good to them. He would say: 'Fight in the Name of Allāh and in Allāh's cause. Fight those who disbelieve in Allāh, and fight, do not be treacherous, nor mutilate, nor kill a child." **(*Ṣaḥīḥ*)**

The *Ḥadīth* is longer than this. [He said:] There are narrations on

١٤٠٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ عَلْقَمَةَ بْنِ مَرْثَدٍ، عَنْ سُلَيْمَانَ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ قَالَ: كَانَ رَسُولُ اللهِ ﷺ إِذَا بَعَثَ أَمِيرًا عَلَى جَيْشٍ أَوْصَاهُ فِي خَاصَّةِ نَفْسِهِ بِتَقْوَى اللهِ وَمَنْ مَعَهُ مِنَ الْمُسْلِمِينَ خَيْرًا فَقَالَ: «اغْزُوا بِسْمِ اللهِ وفِي سَبِيلِ اللهِ قَاتِلُوا مَنْ كَفَرَ بِاللهِ، اغْزُوا وَلَا تَغُلُّوا وَلَا تَغْدِرُوا وَلَا تَمْثِلُوا وَلَا تَقْتُلُوا وَلِيدًا». وفِي الحَدِيثِ قِصَّةٌ [قَالَ:] وَفِي الْبَابِ عَنْ [عَبْدِ اللهِ] بْنِ مَسْعُودٍ وشَدَّادِ

ابْنِ أَوْسٍ [وعِمْرَانَ بْنِ حُصَيْنٍ وأَنَسٍ] وسَمُرَةَ والمُغِيرَةِ ويَعْلَى بْنِ مُرَّةَ وأَبِي أَيُّوبَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ بُرَيْدَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وكَرِهَ أَهْلُ الْعِلْمِ المُثْلَةَ.

this topic from ['Abdullāh] bin Mas'ūd, Shaddād bin Aws, ['Imrān bin Huṣain, Anas] Samurah, Al-Mughīrah, Ya'lā bin Murrah, and Abū Ayyūb.

[Abū 'Eīsā said:] The *Hadīth* of Buraidah is a *Hasan Ṣaḥīḥ Hadīth*. The people of knowledge dislike mutilation.

تخريج: وأخرجه مسلم، الجهاد، باب تأمير الإمام الأمراء على البعوث ... إلخ، ح: ١٧٣١ من حديث عبدالرحمن بن مهدي به، وسيأتي: ١٦١٧ * وفي الباب عن عبدالله بن مسعود [أبو داود، ح: ٢٦٦٦] وشداد بن أوس [يأتي: ١٤٠٩] وعمران بن حصين [أبو داود، ح: ٢٦٦٧] وأنس [البخاري، ح: ٥٥١٣ ومسلم، ح: ١٩٥٦] وسمرة [أبو داود، ح: ٢٦٦٧] والمغيرة [أحمد: ٢/ ٢٤٦ والطحاوي في معاني الآثار: ٣/ ١٨٣] ويعلى بن مرة [أحمد: ٤/ ١٧١، ١٧٣] وأبي أيوب [الطحاوي في معاني الآثار: ٣/ ١٨٢].

Comments:

The purpose of *Jihād* is not the expansion of the Islamic State or creating some disturbance in the world. Creating any trouble in this world is against the spirit of Islam. *Jihād* is only to raise the Word of Allāh, and for subsiding the disturbances for the greater cause of society. So, the head of the army is required to work within the limits imposed by Allāh.

١٤٠٩ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا خَالِدٌ عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي الأَشْعَثِ الصَّنْعَانِيِّ، عَنْ شَدَّادِ بْنِ أَوْسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «إِنَّ اللهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ فَإِذَا قَتَلْتُمْ فَأَحْسِنُوا القِتْلَةَ وإِذَا ذَبَحْتُمْ فَأَحْسِنُوا الذِّبْحَةَ ولْيُحِدَّ أَحَدُكُمْ شَفْرَتَهُ ولْيُرِحْ ذَبِيحَتَهُ».

[قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. أَبُو الْأَشْعَثِ اسْمُهُ [شَرَاحِيلُ] بْنُ آدَةَ.

1409. Shaddād bin Aws narrated that the Prophet ﷺ said: "Indeed Allāh has decreed *Iḥsān* in everything. So when you kill, then do the killing well, and when you slaughter, then do the slaughtering well. Let one of you sharpen his blade, and let him comfort his animal (before slaughtering)." (*Ṣaḥīḥ*)

[He said:] This *Hadīth* is *Hasan Ṣaḥīḥ*, Abū Al-Ash'ath's name is [Shuraḥīl] bin Ādah.

تخريج: وأخرجه مسلم، الصيد والذبائح، باب الأمر بإحسان الذبح والقتل، تحديد الشفرة، ح: ١٩٥٥ من حديث خالد الحذاء به.

Comments:

If Islām could command its adherents to show such great compassion to even animals when they are being lawfully slaughtered, one could then imagine how compassionate it would be with human lives.

Chapter 15. What Has Been Related About The Blood-Money For The Fetus

(المعجم ١٥) - بَابُ مَا جَاءَ فِي دِيَةِ الْجَنِينِ (التحفة ١٥)

1410. Abū Hurairah narrated: "The Messenger of Allāh ﷺ judged that a *Ghurrah* male slave or female slave be given in the case of a fetus. The one the judgement was made against said: 'Should we give something for one who did not drink, nor eat, nor cry out to shed a tear, the likes of which is useless?' So the Prophet ﷺ said: 'This is the speech of a poet. Rather it requires a *Ghurrah*: a male slave or a female slave.''' **(*Ṣaḥīḥ*)**

There are narrations on this topic from [Ḥamal] bin Mālik bin An-Nābighah [and Al-Mughīrah bin Shu'bah].

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. Some of them said that *Al-Ghurrah* is a male or female slave, or five hundred Dirham. Some of them said it could also be a horse or a mule.

١٤١٠ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الكِنْدِيُّ [الْكُوفِيُّ]: حَدَّثَنَا ابْنُ أَبِي زَائِدَةَ عَنْ مُحَمَّدِ ابْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَضَى رَسُولُ اللهِ ﷺ فِي الْجَنِينِ بِغُرَّةٍ عَبْدٍ أَوْ أَمَةٍ فَقَالَ الَّذِي قَضَى عَلَيْهِ أَنُعْطِي مَنْ لَا شَرِبَ وَلَا أَكَلَ وَلَا صَاحَ فَاسْتَهَلَّ فَمِثْلُ ذَلِكَ يُطَلُّ. فَقَالَ النَّبِيُّ ﷺ: «إِنَّ هٰذَا لَيَقُولُ بِقَوْلِ الشَّاعِرِ، بَلَى فِيهِ غُرَّةٌ: عَبْدٌ أَوْ أَمَةٌ».

وَفِي الْبَابِ عَنْ [حَمَلِ] بْنِ مَالِكِ بْنِ النَّابِغَةِ [وَالْمُغِيرَةِ بْنِ شُعْبَةَ].

[**قَالَ أَبُو عِيسَى**:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. وَقَالَ بَعْضُهُمْ: الْغُرَّةُ عَبْدٌ أَوْ أَمَةٌ أَوْ خَمْسُمِائَةِ دِرْهَمٍ. وَقَالَ بَعْضُهُمْ: أَوْ فَرَسٌ أَوْ بَغْلٌ.

تخريج: [**صحيح**] وأخرجه أبو داود، الديات، باب دية الجنين، ح:٤٥٧٩ وابن ماجه، ح:٢٦٣٩ من حديث محمد بن عمرو به وسنده حسن ورواه البخاري، ح:٥٧٥٨ ومسلم، ح:١٦٨١ من حديث أبي سلمة * وفي الباب عن حمل بن مالك [أبو داود، ح:٤٥٧٢] والمغيرة ابن شعبة [يأتي: ١٤١١].

Comments:

The word *'Ghurrah'* is used for every nice thing. The literal meaning of *Ghurrah* is 'white spot on the forehead of a horse' here it means a male or female slave. This word is usually used for horses and mules but here it means to free a slave or a slave woman as the punishment of purposeful abortion.

1411. Al-Mughīrah bin Shu'bah narrated: "Two women co-wives, (were fighting), and one of them hit the other with a stone or a tent post, causing her to have a miscarriage. the Messenger of Allāh ﷺ judged that a *Ghurrah* male or female slave should be given for the fetus, and he required it from the *'Aṣabah*[1] of the woman." (***Ṣaḥīḥ***)

(Another chain) for this *Ḥadīth* [and it is similar to this. He said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٤١١ - حَدَّثَنَا الحَسَنُ بْنُ عَلِيٍّ الخَلَّالُ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا شُعْبَةُ عَنْ مَنْصُورٍ، عَنْ إِبْرَاهِيمَ، عَنْ عُبَيْدِ بْنِ نَضْلَةَ، عَنِ الْمُغِيرَةِ بْنِ شُعْبَةَ أَنَّ امْرَأَتَيْنِ كَانَتَا ضَرَّتَيْنِ فَرَمَتْ إِحْدَاهُمَا الأُخْرَى بِحَجَرٍ أَوْ عَمُودِ فُسْطاطٍ فَأَلْقَتْ جَنِينَهَا فَقَضَى رَسُولُ اللهِ ﷺ فِي الْجَنِينِ غُرَّةً عَبْدًا أَوْ أَمَةً وجَعَلَهُ عَلَى عَصَبَةِ المَرْأَةِ. قَالَ الحَسَنُ وحَدَّثَنَا زَيْدُ بْنُ حُبَابٍ عَنْ سُفْيَانَ، عَنْ مَنْصُورٍ بِهٰذَا الحَدِيثِ [نَحْوَهُ وَقَالَ]: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، القسامة والمحاربين، باب دية الجنين، ووجوب الدية في قتل الخطأ ... إلخ، ح: ١٦٨٢ من حديث شعبة به.

Comments:

These two ladies were the wives of Ḥamal bin Mạlik bin Nābighah. Umm Afīf hit Malkiyah with a stone or with a tent post, causing her to miscarriage. The Prophet ﷺ ordered the relatives from her father's side to pay a slave or a slave woman as compensation to Afīf. (For details see *Fawaid Muslim*)

Chapter 16. What Has Been Related About: The Muslim Is Not Killed For The Disbeliever

(المعجم ١٦) - بَابُ مَا جَاءَ لَا يُقْتَلُ مُسْلِمٌ بِكَافِرٍ (التحفة ١٦)

1412. Abū Juḥaifah said: "I said to 'Alī: O Commander of the Believers! Do you have anything written that is not in Allāh's Book?' He said: 'By the One Who splits the seed and creates the soul, I have not learned from it except what understanding of the Qur'ān Allāh gives to a man, and what is in this sheet of paper.' I said: 'What is in the paper?' He said: 'In it is the *'Aql*,[2] the (ransom for)

١٤١٢ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا مُطَرِّفٌ عَنِ الشَّعْبِيِّ: حَدَّثَنَا أَبُو جُحَيْفَةَ قَالَ: قُلْتُ لِعَلِيٍّ: يَا أَمِيرَ الْمُؤْمِنِينَ! هَلْ عِنْدَكُمْ سَوْدَاءُ فِي بَيْضَاءَ لَيْسَ فِي كِتَابِ اللهِ؟ قَالَ: والَّذِي فَلَقَ الحَبَّةَ وَبَرَأَ النَّسَمَةَ مَا عَلِمْتُهُ إِلَّا فَهْمًا يُعْطِيهِ اللهُ رَجُلًا فِي الْقُرْآنِ ومَا فِي الصَّحِيفَةِ. قُلْتُ: وَمَا فِي الصَّحِيفَةِ؟ قَالَ: فِيهَا الْعَقْلُ وفِكَاكُ الأَسِيرِ وأَنْ لَا يُقْتَلَ

[1] The relatives from her father's side of the family.

[2] Meaning the regulations regarding blood-money.

release of captives, and the judgement that no believer is killed for a disbeliever.'" (*Ṣaḥīḥ*)

[He said:] There is something on this topic from 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Alī is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge. It is the view of Sufyān Ath-Thawrī, Mālik bin Anas, Ash-Shāfi'ī, Aḥmad, and Isḥāq. They said that the believer is not killed for the disbeliever. Some of the people of knowledge said that the Muslim may be killed for the *Mu'āhid*. But the first view is more correct.

مُؤْمِنٌ بِكَافِرٍ. [قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] وَحَدِيثُ عَلِيٍّ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ ومَالِكِ ابْنِ أَنَسٍ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ قَالُوا: لَا يُقْتَلُ مُؤْمِنٌ بِكَافِرٍ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: يُقْتَلُ الْمُسْلِمُ بالمُعَاهَدِ. والقَوْلُ الأَوَّلُ أَصَحُّ.

تخريج: وأخرجه البخاري، الديات، باب العاقلة، ح:٦٩٠٣ من حديث مطرف به * وفي الباب عن عبدالله ابن عمرو [يأتي:١٤١٣].

Chapter (...) What Has Been Related About The Blood-Money For A Disbeliever

(المعجم ...) [بَابُ مَا جَاءَ فِي دِيَةِ الْكُفَّارِ] (التحفة ١٧)

1413. 'Amr bin Shu'aib narrated from his father, from his grandfather that the Messenger of Allāh ﷺ said: "The Muslim is not killed for the disbeliever." (***Ḥasan***)

And with this chain, it has been narrated that the Prophet ﷺ said: "The blood-money paid for the disbeliever is half of the blood-money paid for a believer."

[Abū 'Eīsā said:] The *Ḥadīth* of 'Abdullāh bin 'Amr on this topic is a *Ḥasan Ḥadīth*.

The people of knowledge disagree about the blood-money of the Jew and the Christian. Some of them followed what was reported from the Prophet ﷺ [about the Jews and

١٤١٣ - حَدَّثَنَا عِيسَى بْنُ أَحْمَدَ: حَدَّثَنَا ابْنُ وَهْبٍ عَنْ أُسَامَةَ بْنِ زَيْدٍ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا يُقْتَلُ مُسْلِمٌ بِكَافِرٍ» وَبِهٰذَا الْإِسْنَادِ عَنِ النَّبِيِّ ﷺ قَالَ: «دِيَةُ عَقْلِ الكَافِرِ نِصْفُ دِيَةِ عَقْلِ الْمُؤْمِنِ».

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللهِ بْنِ عَمْرٍو فِي هٰذَا الْبَابِ حَدِيثٌ حَسَنٌ. واخْتَلَفَ أَهْلُ الْعِلْمِ [فِي دِيَةِ الْيَهُودِيِّ والنَّصْرَانِيِّ فَذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ [فِي دِيَةِ الْيَهُودِيِّ والنَّصْرَانِيِّ] إِلَى مَا رُوِيَ عَنِ النَّبِيِّ ﷺ. وقَالَ عُمَرُ بْنُ عَبْدِ العَزِيزِ: دِيَةُ الْيَهُودِيِّ

the Christians]. 'Umar bin 'Abdul-'Azīz said: "The blood-money of a Jew and a Christian is half of the blood-money of a Muslim." This is the view of Aḥmad bin Ḥanbal. It has been reported that 'Umar bin Al-Khaṭṭāb said: "The blood-money of a Jew and a Christian is four thousand [Dirham]. The blood-money of a Zoroastrian is eight-hundred [Dirham]." This is the view of Mālik [bin Anas], Ash-Shāfi'ī, and Isḥāq. Some of the people of knowledge said that the blood-money of a Jew and a Christian is the same as the blood-money of a Muslim. This is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah.

والنَّصْرَانِيِّ نِصْفُ دِيَةِ المُسْلِمِ. وبِهٰذَا يَقُولُ أَحْمَدُ بْنُ حَنْبَلٍ. ورُوِيَ عَنْ عُمَرَ بْنِ الخَطَّابِ أَنَّهُ قَالَ: دِيَةُ اليَهُودِيِّ والنَّصْرَانِيِّ أَرْبَعَةُ آلَافِ [دِرْهَمٍ] وَدِيَةُ المَجُوسِيِّ ثَمَانُمِائَةِ [دِرْهَمٍ]. وبِهٰذَا يَقُولُ مَالِكُ [بْنُ أَنَسٍ] والشَّافِعِيُّ وَإِسْحَاقُ. وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: دِيَةُ اليَهُودِيِّ والنَّصْرَانِيِّ مِثْلُ دِيَةِ المُسْلِمِ. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وأَهْلِ الْكُوفَةِ.

تخريج: [إسناده حسن] وأخرجه النسائي: ٨/ ٤٥، ح: ٤٨١١ (القسامة، باب: كم دية الكافر) من حديث ابن وهب به الحديث الأول، ورواه أبو داود، ح: ٤٥٨٣ وابن ماجه، ح: ٢٦٤٤ الحديث الثاني، وللحديث شواهد.

Comments:

During the lifetime of the Prophet ﷺ, blood-money was eight hundred Dīnār or eight thousand Dirham. Accordingly, the blood-money of a non-Muslim is four thousand Dirham. In the view of Imām Ibn Qudamah, 'Umar bin 'Abdul-'Aziz, 'Urwah, Mālik and 'Amr bin Shu'aib, the blood-money of a Jew or a Christian is half of the blood-money of a Muslim. According to the point of view of 'Umar, 'Uthmān, Sa'eed bin Musayyab, 'Aṭā, Ikrimah, 'Amr bin Dīnār, Shafi'ī and Isḥāq, it is four thousand Dirham. According to 'Alqamah, Mujāhid, Ash-Sha'bī, Ath-Thawrī, and Abū Ḥanīfah, the blood-money of a Jew or Christian is equal to that of a Muslim.

Chapter 17. What Has Been Related About A Man Who Killed His Slave

(المعجم ١٧) - بَابُ مَا جَاءَ فِي الرَّجُلِ يَقْتُلُ عَبْدَهُ (التحفة ١٨)

1414. Samurah narrated that the Messenger of Allāh ﷺ said: "Whoever kills his slave, then we will kill him, and whoever maims his slave, then we will maim him." (*Ḥasan*)

١٤١٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ قَتَلَ عَبْدَهُ قَتَلْنَاهُ ومَنْ جَدَعَ عَبْدَهُ جَدَعْنَاهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وقَدْ ذَهَبَ بعْضُ أَهْلِ الْعِلْمِ مِنَ التَّابِعِينَ مِنْهُمْ إِبْرَاهِيمُ النَّخَعِيُّ إِلَى هٰذَا: وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْهُمُ الْحَسَنُ الْبَصْرِيُّ وَعَطَاءُ بْنُ أَبِي رَبَاحٍ: لَيْسَ بَيْنَ الحُرِّ وَالعَبْدِ قِصَاصٌ فِي النَّفْسِ وَلَا فِي مَا دُونَ النَّفْسِ. وهُو قَوْلُ أَحْمَدَ وإِسْحَاقَ. وقَالَ بَعْضُهُمْ: إِذَا قَتَلَ عَبْدَهُ لَا يُقْتَلُ بِهِ وإِذَا قَتَلَ عَبْدَ غَيْرِهِ قُتِلَ بِهِ. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ [وَأَهْلِ الْكُوفَةِ].

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*.

Some of the people of knowledge among the *Tābi'īn* followed this, among them is Ibrāhīm An-Nakha'ī. Some of the people of knowledge – among them Al-Hasan Al-Basrī, 'Atā' bin Abī Rabāh – said: "There is no retaliation between the free and the slave in cases of murder, or in cases less than murder." This is the view of Ahmad and Ishāq. Some of them said: When a person kills his slave he is not killed for that, and when he kills the slave of someone else, then he is killed for that. This is the saying of Sufyān Ath-Thawrī [and the people of Al-Kūfah].

تخريج: [حسن] وأخرجه النسائي: ٨/ ٢١، ح: ٤٧٤٢ (القسامة، باب القود من السيد للمولى) عن قتيبة به وصححه الحاكم على شرط البخاري: ٤/ ٣٦٧ ووافقه الذهبي، ورواه أبو داود، ح: ٤٥١٥ وغيره من حديث قتادة به.

(المعجم ١٨) - بَابُ مَا جَاءَ فِي الْمَرْأَةِ [هَلْ] تَرِثُ مِنْ دِيَةِ زَوْجِهَا (التحفة ١٩)

Chapter 18. What Has Been Related About The Woman: Does She Inherit What Is Due Of Her Husband's Blood-Money?

١٤١٥ - حَدَّثَنَا قُتَيْبَةُ [وأَحْمَدُ بْنُ مَنِيعٍ] وأَبُو عَمَّارٍ وغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا سُفْيَانُ ابْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ عُمَرَ كانَ يَقُولُ: الدِّيَةُ عَلَى العَاقِلَةِ ولَا تَرِثُ الْمَرْأَةُ مِنْ دِيَةِ زَوْجِهَا شَيْئًا. حَتَّى أَخْبَرَهُ الضَّحَّاكُ بْنُ سُفْيَانَ الكُلَابِيُّ: أَنَّ رَسُولَ اللهِ ﷺ كَتَبَ إِلَيْهِ أَنْ: وَرِّثِ امْرَأَةَ أَشْيَمَ الضِّبَابِيِّ مِنْ دِيَةِ زَوْجِهَا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

1415. Sa'eed bin Al-Musayyab narrated that 'Umar would say: "The blood-money upon the tribe, and the wife does not inherit any of her husband's blood-money." Until Ad-Dahhāk bin Sufyān Al-Kulābī informed him that the Messenger of Allāh ﷺ wrote to me, that Ashaim Ad-Dibābī's wife inherited the blood-money of her husband. **(*Sahīh*)**

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. This is acted upon according to the people of knowledge.

صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ.

تخريج: [**صحيح**] وأخرجه أبو داود، الفرائض، باب: في المرأة ترث من دية زوجها، ح:٢٩٢٧ وابن ماجه، ح:٢٦٤٢ وأحمد:٣/ ٤٥٢ عنه من حديث سفيان بن عيينة به وصححه ابن الجارود، ح:٩٦٦ وله شاهد عند الطبراني:٥/ ٢٧٦، ح:٥/ ٥٣ ورجاله ثقات.

Comments:

According to most of the people of knowledge, the blood-money belongs to the deceased; therefore, it should be distributed among his heirs. (*Tuḥfat-Al-Aḥwadhī* v. 2. p. 314)

Chapter 19. What Has Been Related About *Qiṣāṣ*

(المعجم ١٩) - **بَابُ مَا جَاءَ فِي الْقِصَاصِ** (التحفة ٢٠)

1416. 'Imrān bin Ḥuṣain narrated: "A man bit the hand of another man. The man who was bitten pulled his hand out, causing two of his incisors (teeth) to fall out. They brought their case to the Prophet ﷺ. So he said: "One of you bites his brother like the stallion bites? There is no blood-money for you.' So Allāh Most High revealed: Wounds, equal for equal."[1] (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Ya'lā bin Umayyah and Salamah bin Umayyah who are brothers.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Imrān bin Ḥuṣain is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

١٤١٦ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنْ شُعْبَةَ، عَنْ قَتَادَةَ قَالَ: سَمِعْتُ زُرَارَةَ بْنَ أَوْفَى يُحَدِّثُ عَنْ عِمْرَانَ بْنِ حُصَيْنٍ: أَنَّ رَجُلًا عَضَّ يَدَ رَجُلٍ فَنَزَعَ يَدَهُ فَوَقَعَتْ ثَنِيَّتَاهُ فَاخْتَصَمُوا إِلَى النَّبِيِّ ﷺ فَقَالَ: «يَعَضُّ أَحَدُكُمْ أَخَاهُ كَمَا يَعَضُّ الفَحْلُ لَا دِيَةَ لَكَ» فَأَنْزَلَ اللهُ تَعَالَى ﴿وَٱلْجُرُوحَ قِصَاصٌ﴾ [المائدة:٤٥] [قَالَ:] وَفِي الْبَابِ عَنْ يَعْلَى ابْنِ أُمَيَّةَ وَسَلَمَةَ بْنِ أُمَيَّةَ وَهُمَا أَخَوَانِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عِمْرَانَ بْنِ حُصَيْنٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الديات، باب: إذا عض رجلاً فوقعت ثناياه، ح:٦٨٩٢ ومسلم، ح:١٦٧٣ من حديث شعبة به * وفي الباب عن يعلى بن أمية [البخاري، ح:١٨٤٧، ٢٢٦٥ ومسلم، ح:١٦٧٤] وسلمة بن أمية [ابن ماجه، ح:٢٦٥٦].

Comments:

This narration proves that there is no blood-money if an assailant is hurt during his assault. If someone is defending himself, and the assailant is hurt, there is no blood-money for him.

[1] *Al-Mā'idah* 5:45.

Chapter 20. What Has Been Related About Imprisoning For An Accusation

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي الْحَبْسِ فِي التُّهْمَةِ (التحفة ٢١)

1417. Bahz bin Ḥakīm narrated from his father, from his grandfather, that the Prophet ﷺ imprisoned a man for an accusation, then he let him go. (***Ḥasan***)

He said: There is something on this topic from Abū Hurairah.

[Abū 'Eīsā said:] The *Ḥadīth* of Bahz from his father, from his grandfather is a *Ḥasan Ḥadīth*. Ismā'īl bin Ibrāhīm reported this *Ḥadīth* from Bahz bin Ḥakīm, but it was more complete than this and longer.

١٤١٧ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الْكِنْدِيُّ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنْ مَعْمَرٍ، عَنْ بَهْزِ بْنِ حَكِيمٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ النَّبِيَّ ﷺ حَبَسَ رَجُلًا فِي تُهْمَةٍ ثُمَّ خَلَّى عَنْهُ. قَالَ: وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ بَهْزٍ عَنْ أَبِيهِ، عَنْ جَدِّهِ حَدِيثٌ حَسَنٌ. وَقَدْ رَوَى إِسْمَاعِيلُ ابْنُ إِبْرَاهِيمَ، عَنْ بَهْزِ بْنِ حَكِيمٍ هٰذَا الْحَدِيثَ أَتَمَّ مِنْ هٰذَا وأَطْوَلَ.

تخريج: [إسناده حسن] وأخرجه النسائي: ٧/ ٦٧، ح: ٤٨٨٠ (قطع السارق، باب امتحان السارق بالضرب والحبس) عن علي بن سعيد الكندي به ورواه أبو داود، ح: ٣٦٣٠ من حديث معمر به * وفي الباب عن أبي هريرة [الحاكم: ٤/ ١٠٢].

Comments:

This narration is proof that an accused person can be imprisoned for the purpose of investigation, and if the charges against him are not proven, he should be immediately freed from prison.

Chapter 21. What Has Been Related About: Whoever Is Killed Over His Wealth, Then He Is A Martyr

(المعجم ٢١) - بَابُ مَا جَاءَ [فِيـ]ـمَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ (التحفة ٢٢)

1418. Sa'eed bin Zaid bin 'Amr bin Nufail narrated that the Prophet ﷺ said: "Whoever is killed over his wealth then he is a martyr. [And whoever steals a hand-span of land, he will bear seven earths on the Day of Resurrection.]" (***Ṣaḥīḥ***)

Ḥātim bin Siyāh Al-Marwazī narrated an addition in this *Ḥadīth*. Ma'mar said: "It was conveyed to me by Az-Zuhrī" and he did not

١٤١٨ - حَدَّثَنَا سَلَمَةُ بْنُ شَبِيبٍ، وَحَاتِمُ ابْنُ سِيَاهٍ الْمَرْوَزِيُّ وغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنْ طَلْحَةَ بْنِ عَبْدِ اللهِ بْنِ عَوْفٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ عَمْرِو بْنِ سَهْلٍ، عَنْ سَعِيدِ بْنِ زَيْدِ بْنِ عَمْرِو بْنِ نُفَيْلٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ [وَمَنْ سَرَقَ مِنَ

الْأَرْضِ شِبْرًا طَوَّقَهُ يَوْمَ الْقِيَامَةِ مِنْ سَبْعِ أَرَضِينَ وزَادَ حَاتِمُ بْنُ سِياهِ الْمَرْوزِيُّ فِي هٰذَا الْحَدِيثِ. قَالَ مَعْمَرٌ: بَلَغَنِي عَنِ الزُّهْرِيِّ وَلَمْ أَسْمَعْ مِنْهُ زَادَ فِي هٰذَا الْحَدِيثِ: مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ. وَهٰكَذا رَوَى شُعَيْبُ بْنُ أَبِي حَمْزَةَ هٰذَا الْحَدِيثَ عَنِ الزُّهْرِيِّ، عَنْ طَلْحَةَ بْنِ عَبْدِاللهِ، عَنْ عَبْدِالرَّحْمٰنِ بْنِ عَمْرِو ابْنِ سَهْلٍ، عَنْ سَعِيدِ بْنِ زَيْدٍ عَنِ النَّبِيِّ ﷺ وَرَوَى سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ طَلْحَةَ بْنِ عَبْدِاللهِ، عَنْ سَعِيدِ بْنِ زَيْدٍ عَنِ النَّبِيِّ ﷺ وَلَمْ يَذْكُرْ فِيهِ سُفْيَانُ، عَنْ عَبْدِالرَّحْمٰنِ بْنِ عَمْرِو بْنِ سَهْلٍ].

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

hear him adding to this *Ḥadīth*: "Whoever is killed over his wealth then he is a martyr." This is how Shu'aib bin Abī Ḥamzah narrated this *Ḥadīth* from Az-Zuhrī, from Ṭalḥah bin 'Abdullāh, from 'Abdur-Raḥmān bin 'Amr bin Sahl, from Sa'eed bin Zaid, from the Prophet ﷺ. Sufyān bin 'Uyainah narrated it from Az-Zuhrī, from Ṭalḥah bin 'Abdullāh, from Sa'eed bin Zaid from the Prophet ﷺ. Sufyān did not mention in it: "From 'Abdur-Raḥmān bin 'Amr bin Sahl."]

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: [صحيح] وأخرجه ابن حبان (الإحسان): ٣١٨٥ من حديث عبدالرزاق به ورواه أبو داود، ح:٤٧٧٢ وابن ماجه، ح:٢٥٨٠ والنسائي، ح:٤٠٩٩ وللحديث شواهد وحديث شعيب عند (البخاري، ح:٢٤٥٢) وغيره، وحديث سفيان بن عيينة عند أبي داود، ح:٤٧٧٢ وغيره.

١٤١٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو عَامِرٍ العَقَدِيُّ: حَدَّثَنَا عَبْدُ العَزِيزِ بْنُ الْمُطَّلِبِ عَنْ عَبْدِ اللهِ بْنِ الْحَسَنِ، عَنْ إِبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ طَلْحَةَ، عَنْ عَبْدِ اللهِ ابْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ» [قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وَسَعِيدِ بْنِ زَيْدٍ، وأَبِي هُرَيْرَةَ، وابْنِ عُمَرَ وابْنِ عَبَّاسٍ وجَابِرٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللهِ بْنِ عَمْرٍو حَدِيثٌ حَسَنٌ. وقَدْ رُوِيَ عَنْهُ مِنْ غَيْرِ وَجْهٍ. وقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ لِلرَّجُلِ

1419. 'Abdullāh bin 'Amr narrated that the Prophet ﷺ said: "Whoever is killed over his wealth, then he is a martyr." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Alī, Sa'eed bin Zaid, Abū Hurairah, Ibn 'Umar, Ibn 'Abbās, and Jābir.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Abdullāh bin 'Amr is a *Ḥasan Ḥadīth*, and it has been reported from him through other routes. Some of the people of knowledge have made an exception in cases where a man kills to protect himself and his wealth. Ibn Al-Mubārak said that he may kill to

defend his wealth, even if it is only two Dirham.

أَنْ يُقَاتِلَ عَنْ نَفْسِهِ وَمَالِهِ. وقَالَ ابْنُ الْمُبَارَكِ: يُقَاتِلُ عَنْ مَالِهِ ولَوْ دِرْهَمَيْنِ.

تخريج: **[إسناده صحيح]** وأخرجه أبو داود، السنة، باب: في قتال اللصوص، ح:٤٧٧١ من حديث عبدالله بن الحسن به وللحديث طرق كثيرة * وفي الباب عن علي [أحمد:١/٧٨] وسعيد بن زيد [تقدم:١٤١٨] وأبي هريرة [مسلم، ح:١٤٠] وابن عمر [ابن ماجه، ح:٢٥٨١] وابن عباس [أحمد:١/٣٠٥] وجابر [أبو نعيم في أخبار أصبهان:١/٢٣٥].

Comments:

The religion of Islam gives extreme importance to the Muslim's faith, life, honor, and property. No one is allowed to rob or steal the property of others. Defending one's property is the duty of every Muslim, and according to most of the scholars, every Muslim has the right to defend his life and property even if he has to fight for it and kill the robber.

1420. 'Abdullāh bin 'Amr narrated that the Messenger of Allāh ﷺ said: "If someone tries to get another's wealth without right, and he fights and is killed, then he is a martyr." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

(Another chain of narration) from 'Abdullāh bin 'Amr, from the Prophet ﷺ, with similar meaning.

١٤٢٠ - حَدَّثَنَا هَارُونُ بْنُ إِسْحَاقَ الْهَمْدَانِيُّ قَالَ: حَدَّثَنِي مُحَمَّدُ بْنُ عَبْدِ الْوَهَّابِ [الْكُوفِيُّ شَيْخٌ ثِقَةٌ] عَنْ سُفْيَانَ الثَّوْرِيِّ، عَنْ عَبْدِ اللهِ بْنِ الْحَسَنِ، [عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ] حَدَّثَنِي إِبْرَاهِيمُ بْنُ مُحَمَّدِ بْنِ طَلْحَةَ. قَالَ سُفْيَانُ وَأَثْنَى عَلَيْهِ خَيْرًا قَالَ: سَمِعْتُ عَبْدَ اللهِ ابْنَ عَمْرٍو يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ أُرِيدَ مَالُهُ بِغَيْرِ حَقٍّ فَقَاتَلَ فَقُتِلَ فَهُوَ شَهِيدٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ ابْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ عَبْدِ اللهِ بْنِ الْحَسَنِ، عَنْ إِبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ طَلْحَةَ، عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

تخريج: **[إسناده صحيح]** وأخرجه أبو داود، أيضًا، ح:٤٧٧١ من حديث سفيان الثوري به وصرح بالسماع.

1421. Zaid narrated that he heard the Messenger of Allāh ﷺ saying: "Whoever is killed over his wealth then he is a martyr, and whoever is killed over his religion, then he is a

١٤٢١ - حَدَّثَنَا عَبْدُ بْنُ حُمَيْدٍ قَالَ: أَخْبَرَنِي يَعْقُوبُ بْنُ إِبْرَاهِيمَ بْنِ سَعْدٍ: حَدَّثَنِي أَبِي عَنْ أَبِيهِ، عَنْ أَبِي عُبَيْدَةَ بْنِ مُحَمَّدِ بْنِ

martyr, and whoever is killed over his blood, then he is a martyr, and whoever is killed over his family, then he is a martyr." (***Sahīh***)

[He said:] This *Hadīth* is *Hasan Sahīh*, and this is how it was reported by more than one narrator from Ibrāhīm bin Sa'd, and it is similar to this. Ya'qūb (one of the narrators) is Ibn Ibrāhīm bin Sa'd bin Ibrāhīm bin 'Abdur-Rahmān bin 'Awf Az-Zuhrī.

عَمَّارِ بْنِ يَاسِرٍ، عَنْ طَلْحَةَ بْنِ عَبْدِ اللهِ بْنِ عَوْفٍ، عَنْ سَعِيدِ بْنِ زَيْدٍ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ، وَمَنْ قُتِلَ دُونَ دِينِهِ فَهُوَ شَهِيدٌ، وَمَنْ قُتِلَ دُونَ دَمِهِ فَهُوَ شَهِيدٌ، وَمَنْ قُتِلَ دُونَ أَهْلِهِ فَهُوَ شَهِيدٌ» [قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَهٰكَذَا رَوَى غَيْرُ وَاحِدٍ، عَنْ إِبْرَاهِيمَ بْنِ سَعْدٍ نَحْوَ هٰذَا، وَيَعْقُوبُ هُوَ ابْنُ إِبْرَاهِيمَ بْنِ سَعْدِ بْنِ إِبْرَاهِيمَ بْنِ عَبْدِ الرَّحْمٰنِ ابْنِ عَوْفٍ الزُّهْرِيُّ.

تخريج: [**إسناده صحيح**] وأخرجه النسائي:٧/١١٦ ح:٤٠٩٩ (تحريم الدم، باب من قاتل دون أهله) من حديث أبي عبيدة بن محمد بن عمار به رواه أبو داود، ح:٤٧٧٢ وابن ماجه، ح:٢٥٨٠ من حديث طلحة بن عبدالله بن عوف، وللحديث شواهد كثيرة منها الحديث المتقدم:١٤١٨.

Chapter 22. What Has Been Related About *Al-Qasāmah*[1]

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي الْقَسَامَةِ (التحفة ٢٣)

1422. Sahl bin Abī Hathmah narrated – Yahya (one of the narrators) said: And I think it was from Rāfi' bin Khadīj – that 'Abdullāh bin Sahl bin Zaid and Muhaiyṣah bin Mas'ūd bin Zaid went out and when they reached Khaibar they separated while there. Then Muhayyiṣah found 'Abdullāh bin Sahl murdered [so he buried him]. Then he went to the Messenger of Allāh ﷺ along with Huwayyiṣah bin Mas'ūd and 'Abdur-Rahmān bin Sahl. The youngest of the people, 'Abdur-

١٤٢٢ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ [ابْنُ سَعْدٍ] عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَثْمَةَ قَالَ يَحْيَى: وحَسِبْتُ، عَنْ رَافِعِ بْنِ خَدِيجٍ أَنَّهُمَا قَالَا: خَرَجَ عَبْدُ اللهِ بْنُ سَهْلِ بْنِ زَيْدٍ ومُحَيِّصَةُ بْنُ مَسْعُودِ بْنِ زَيْدٍ حَتَّى إِذَا كَانَ بِخَيْبَرَ تَفَرَّقَا فِي بَعْضِ مَا هُنَاكَ ثُمَّ إِنَّ مُحَيِّصَةَ وَجَدَ عَبْدَ اللهِ ابْنَ سَهْلٍ قَتِيلًا قَدْ قُتِلَ [فَدَفَنَهُ]، ثُمَّ أَقْبَلَ إِلَى رَسُولِ اللهِ ﷺ هُوَ وحُوَيِّصَةُ بْنُ مَسْعُودٍ وعَبْدُ الرَّحْمٰنِ بْنُ سَهْلٍ وكَانَ أَصْغَرَ الْقَوْمِ ذَهَبَ

[1] It refers to the oath taken by a group of people about one of them who was killed, or it refers to the group of people who take the oath. See *Tuhfat Al-Ahwadhī*.

Raḥmān, went to speak ahead of his companions. The Messenger of Allāh ﷺ said to him: "Let the eldest of you speak." So he was silent and his two companions spoke. So he conversed with them and they mentioned to the Messenger of Allāh ﷺ about the murder of 'Abdullāh bin Sahl. He said to them: "If fifty of you can swear an oath then you will have the right against the muderer." They said: "How can we take an oath when we did not witness it?" He said: "Then fifty of the Jews can swear to clear the charge with you?" They said: "How could we accept the oaths of a disbelieving people?" So when he saw that, the Messenger of Allāh ﷺ paid the blood-money." (*Ṣaḥīḥ*)

عَبْدُ الرَّحْمٰنِ لِيَتَكَلَّمَ قَبْلَ صَاحِبَيْهِ. قَالَ لَهُ رَسُولُ اللهِ ﷺ: «كَبِّرِ الْكُبْرَ» فَصَمَتَ وتَكَلَّمَ صَاحِبَاهُ، ثُمَّ تَكَلَّمَ مَعَهُمَا فَذَكَرُوا لِرَسُولِ اللهِ ﷺ مَقْتَلَ عَبْدِاللهِ بْنِ سَهْلٍ فَقَالَ لَهُمْ: «أَتَحْلِفُونَ خَمْسِينَ يَمِينًا فَتَسْتَحِقُّونَ صَاحِبَكُمْ أَوْ قَاتِلَكُمْ» قَالُوا: كَيْفَ نَحْلِفُ ولَمْ نَشْهَدْ؟ قَالَ: «فَتُبَرِّئُكُمْ يَهُودُ بِخَمْسِينَ يَمِينًا؟» قَالُوا: وكَيْفَ نَقْبَلُ أَيْمَانَ قَوْمٍ كُفَّارٍ؟ فَلَمَّا رَأَى ذَلِكَ رَسُولُ اللهِ ﷺ أَعْطَى عَقْلَهُ.

(Another chain) from Sahl bin Abī Ḥathmah and Rāfi' bin Khadīj, and the meaning is similar to this *Ḥadīth*.

حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الخَلَّالُ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ بُشَيْرِ بْنِ يَسَارٍ، عَنْ سَهْلِ بْنِ أَبِي حَثْمَةَ وَرَافِعِ بْنِ خَدِيجٍ نَحْوَ هٰذَا الحَدِيثِ بِمَعْنَاهُ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

This *Ḥadīth* is acted upon in cases of *Al-Qasāmah* according to the people of knowledge. Some of the *Fuqahā'* of Al-Madīnah held the view that retaliation could be based upon *Al-Qasāmah*. Some of the people of knowledge among the people of Al-Kūfah and others said that there is no retaliation in *Al-Qasāmah* rather only blood-money.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا [الْحَدِيثِ] عِنْدَ أَهْلِ الْعِلْمِ فِي الْقَسَامَةِ. وقَدْ رَأَى بَعْضُ فُقَهَاءِ المَدِينَةِ الْقَوَدَ بِالْقَسَامَةِ. وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَهْلِ الْكُوفَةِ وغَيْرِهِمْ: إِنَّ الْقَسَامَةَ لَا تُوجِبُ الْقَوَدَ وإِنَّمَا تُوجِبُ الدِّيَةَ.

تخريج: متفق عليه، وأخرجه مسلم، القسامة والمحاربين، باب القسامة، ح:١٦٦٩ عن قتيبة والبخاري، ح:٣١٧٣ من حديث يحيى بن سعيد الأنصاري به.

Comments:

If there is a murder in an area or a village, and the people of that area or village have no enmity or dispute with the victim for which they could be charged, or a law-suit could be filed against them that they had committed the murder, in such circumstances the claimants have to produce some proof or witnesses against the people of that area, or fifty people from the defendants will swear an oath and the case will be decided accordingly.

In the Name of Allāh,
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

15. The Chapters On Legal Punishments (*Al-Ḥudūd*) From The Messenger Of Allāh ﷺ

(المعجم ١٥) - أَبْوَابُ الْحُدُودِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٣)

Comments:

"Ḥadd" means to stop or prevent, and in the *Sharī'ah* it means the restrictive ordinance of Allāh ﷻ and the punishment for non-observance thereof. *Qiṣāṣ* or killing in retaliation is not included in *Ḥudūd*, as it is the right of human-beings and can be pardoned.

Chapter 1. What Has Been Related About Those From Whom Punishment Is Not Required

(المعجم ١) - بَابُ مَا جَاءَ فِيمَنْ لَا يَجِبُ عَلَيْهِ الْحَدُّ (التحفة ١)

1423. 'Alī narrated that the Messenger of Allāh ﷺ said: "The pen has been lifted from three; for the sleeping person until he awakens, for the boy until he becomes a young man and for the mentally insane until he regains sanity." (***Ḥasan***)

[He said:] There is something on this topic from 'Āishah.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Alī is a *Ḥasan Gharīb Ḥadīth* from this route. It has been reported from more than one route from 'Alī [from the Prophet ﷺ] and some of them mentioned: "from the boy until he has a wet dream" and we do not know that Al-Ḥasan (Al-Baṣri) heard from 'Alī.

This *Ḥadīth* has similarly been reported from 'Aṭā' bin As-Sā'ib, from Abū Ẓibyān, from 'Alī [bin

١٤٢٣ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى الْقُطَعِيُّ [الْبَصْرِيُّ]: حَدَّثَنَا بِشْرُ بْنُ عُمَرَ: حَدَّثَنَا هَمَّامٌ عَنْ قَتَادَةَ، عَنِ الْحَسَنِ [الْبَصْرِيِّ]، عَنْ عَلِيٍّ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ، عَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وعَنِ الصَّبِيِّ حَتَّى يَشِبَّ، وعَنِ الْمَعْتُوهِ حَتَّى يَعْقِلَ»

[قَالَ:] وَفِي الْبَابِ عَنْ عَائِشَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَلِيٍّ حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ عَلِيٍّ [عَنِ النَّبِيِّ ﷺ] وذَكَرَ بَعْضُهُمْ: «وعَنِ الْغُلَامِ حَتَّى يَحْتَلِمَ». ولَا نَعْرِفُ لِلْحَسَنِ سَمَاعًا مِنْ عَلِيِّ بْنِ أَبِي طَالِبٍ.

وقَدْ رُوِيَ هٰذَا الْحَدِيثُ، عَنْ عَطَاءِ بْنِ

Abī Ṭālib], from the Prophet ﷺ. It has also been reported from Al-A'mash from Abū Ẓibyān, from Ibn 'Abbās, from 'Alī in *Mawqūf* not *Marfū'* form. And this *Ḥadīth* is acted upon according to the people of knowledge.

[Abū 'Eīsā said: Al-Ḥasan was alive during the time of 'Alī and he saw him but we are not aware of him hearing from him.] Abū Ẓibyān's name is Ḥuṣain bin Jundab.

السَّائِبِ، عَنْ أَبِي ظَبْيَانَ، عَنْ عَلِيٍّ [بْنِ أَبِي طَالِبٍ] عَنِ النَّبِيِّ ﷺ نَحْوَ هٰذَا الْحَدِيثِ. وَرَوَاهُ، عَنِ الْأَعْمَشِ، عَنْ أَبِي ظَبْيَانَ، عَنِ ابْنِ عَبَّاسٍ، عَنْ عَلِيٍّ مَوْقُوفًا ولَمْ يَرْفَعْهُ. والْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ.

[قَالَ أَبُو عِيسَى: قَدْ كَانَ الْحَسَنُ فِي زَمَانِ عَلِيٍّ وَقَدْ أَدْرَكَهُ ولَكِنَّا لَا نَعْرِفُ لَهُ سَمَاعًا مِنْهُ].

وأَبُو ظِبْيَانَ اسْمُهُ حُصَيْنُ بْنُ جُنْدَبٍ.

تخريج: [حسن] وأخرجه النسائي في الكبرى، ح:٧٣٤٦ من حديث همام به وللحديث شواهد عند أبي داود، ح:٤٣٩٨-٤٤٠٣ وابن خزيمة:١٠٢/٢، ٣٤٨/٤ وابن حبان، ح:١٤٩٦ والحاكم:٥٩/٢، ٣٨٩/٤ وغيرهم وله شاهد موقوف صحيح وله حكم الرفع * حديث عطاء بن السائب عند أبي داود، ح:٤٤٠٢ وحديث الأعمش عنده أيضًا، ح:٤٣٩٩ * وفي الباب عن عائشة [أبو داود:٤٣٩٨].

Comments:

Most of the people of knowledge and scholars have accepted and agreed with this narration, but there is a difference of opinion on its details. All the scholars and the people of knowledge agree that these three kinds of people mentioned in the narration will not be considered sinners.

Chapter 2. What Has Been Related About Averting Legal Punishments

(المعجم ٢) - بَابُ مَا جَاءَ فِي دَرْءِ الْحُدُودِ (التحفة ٢)

1424. 'Āishah narrated that the Messenger of Allāh ﷺ said: "Avert the legal penalties from the Muslims as much as possible, if he has a way out then leave him to his way, for if the *Imām* makes a mistake in forgiving it would be better than making a mistake in punishment." ***(Ḍa'īf)***

(Another chain) which is similar to the narration of Muḥammad bin Rabī'ah (a narrator in no. 1424) but he did not narrate it in *Marfū'*

١٤٢٤ - حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ الْأَسْوَدِ أَبُو عَمْرٍو الْبَصْرِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ رَبِيعَةَ: حَدَّثَنَا يَزِيدُ بْنُ زِيَادٍ الدِّمَشْقِيُّ عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «ادْرَءُوا الْحُدُودَ عَنِ الْمُسْلِمِينَ مَا اسْتَطَعْتُمْ فَإِنْ كَانَ لَهُ مَخْرَجٌ فَخَلُّوا سَبِيلَهُ فَإِنَّ الْإِمَامَ أَنْ يُخْطِئَ فِي الْعَفْوِ خَيْرٌ مِنْ أَنْ يُخْطِئَ فِي الْعُقُوبَةِ».

form. [He said:] There are narrations on this topic from Abū Hurairah and 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] We do not know of the *Hadīth* of 'Āishah to be *Marfū'* except from the report of Muhammad bin Rabī'ah from Yazīd bin Ziyād Ad-Dimashqī, from Az-Zuhrī, from 'Urwah, from 'Āishah, from the Prophet ﷺ. Wakī' reported it from Yazīd bin Ziyād similarly, and he did not narrate it in *Marfū'* form. The narration of Wakī' is more correct. Statements like this have been reported from more than one of the Companions of the Prophet ﷺ. Yazīd bin Ziyād Ad-Dimashqī is weak in *Hadīth* and Yazīd bin Abī Ziyād Al-Kūfī is more reliable than this one, and earlier.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وَكِيعٌ عَنْ يَزِيدَ بْنِ زِيَادٍ نَحْوَ حَدِيثِ مُحَمَّدِ بْنِ رَبِيعَةَ وَلَمْ يَرْفَعْهُ [قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وعَبْدِ اللهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَائِشَةَ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ حَدِيثِ مُحَمَّدِ بْنِ رَبِيعَةَ عَنْ يَزِيدَ بْنِ زِيَادٍ الدِّمَشْقِيِّ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ عَنِ النَّبِيِّ ﷺ. ورَوَاهُ وَكِيعٌ عَنْ يَزِيدَ بْنِ زِيَادٍ نَحْوَهُ ولَمْ يَرْفَعْهُ ورِوَايَةُ وَكِيعٍ أَصَحُّ وَقَدْ رُوِيَ نَحْوُ هٰذَا عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ أَنَّهُمْ قَالُوا مِثْلَ ذَلِكَ وَيَزِيدُ بْنُ زِيَادٍ الدِّمَشْقِيُّ ضَعِيفٌ فِي الْحَدِيثِ وَيَزِيدُ بْنُ أَبِي زِيَادٍ الْكُوفِيُّ أَثْبَتُ مِنْ هٰذَا وَأَقْدَمُ.

تخريج: [ضعيف] وأخرجه البيهقي: ٨/ ٢٣٨ من حديث محمد بن ربيعة ومن حديث وكيع به وسنده ضعيف جدًّا وله شواهد كلها ضعيفة ✱ وفي الباب عن أبي هريرة [ابن ماجه، ح: ٢٥٤٥] وعبدالله بن عمرو [أبو داود، ح: ٤٣٧٦].

Comments:

Such words and expressions of the Companions are moral and rescuing suggestions to the *Imām*, judge and the the ruler. The judge or person in authority should always try to save the offender and should not apply the *Hadd* punishment if there is a chance to save the offender. Before imposing the *Hudūd* the judge is required to confirm that the offender is a sane person, and he committed the crime in that state. The judge must make sure that the offender is not under pressure, or he is not a drug addicted man. If the offence is proven and the witnesses are available, then the offender should be punished. (*Tuhfat Al-Ahwadhī* v. 2. p.318.)

Chapter 3. What Has Been Related About Covering (The Faults Of) The Muslim

(المعجم ٣) - بَابُ مَا جَاءَ فِي السَّتْرِ عَلَى الْمُسْلِمِ (التحفة ٣)

1425. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever relieves a Muslim of a

١٤٢٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنِ الْأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي

burden from the burdens of the world, Allāh will relieve him of a burden from the burdens of the Hereafter. And whoever covers (the faults of) a Muslim, Allāh will cover (his faults) for him in the world and the Hereafter. And Allāh is engaged in helping the worshipper as long as the worshipper is engaged in helping his brother." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Uqbah bin 'Āmir and Ibn 'Umar.

[Abū 'Eīsā said:] This is how the *Ḥadīth* of Abū Hurairah was reported by more than one narrator; from Al-A'mash, from Abū Ṣāliḥ, from Abū Hurairah, from the Prophet ﷺ, similar to the narration of Abū 'Awānah.

Asbāṭ bin Muḥammad reported it from Al-A'mash, who said: "It has been narrated to me from Abū Ṣāliḥ, from Abū Hurairah, from the Prophet ﷺ," and it is similar. [It is as if this is more correct than the first narration].

(Another chain) for this *Ḥadīth*

هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ نَفَّسَ عَنْ مُسْلِمٍ كُرْبَةً مِنْ كُرَبِ الدُّنْيَا نَفَّسَ اللهُ عَنْهُ كُرْبَةً مِنْ كُرَبِ الْآخِرَةِ، وَمَنْ سَتَرَ عَلَى مُسْلِمٍ سَتَرَهُ اللهُ فِي الدُّنْيَا وَالْآخِرَةِ، وَاللهُ فِي عَوْنِ الْعَبْدِ ما كَانَ العَبْدُ في عَوْنِ أَخِيهِ».

[قَالَ:] وَفِي الْبَابِ عَنْ عُقْبَةَ بْنِ عَامِرٍ وابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ هٰكَذَا رَوَى غَيْرُ وَاحِدٍ عَنِ الْأَعْمَشِ عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَ رِوَايَةِ أَبِي عَوَانَةَ ورَوَى أَسْبَاطُ بْنُ مُحَمَّدٍ عَنِ الْأَعْمَشِ قَالَ: حُدِّثْتُ عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ [وَكَأَنَّ هٰذَا أَصَحُّ مِنَ الْحَدِيثِ الْأَوَّلِ].

حَدَّثَنَا بِذَلِكَ عُبَيْدُ بْنُ أَسْبَاطَ بْنِ مُحَمَّدٍ قَالَ: حَدَّثَنِي أَبِي عَنِ الْأَعْمَشِ بِهٰذَا الْحَدِيثِ.

تخريج: وأخرجه مسلم، الذكر والدعاء، باب فضل الاجتماع على تلاوة القرآن، وعلى الذكر، ح:٢٦٩٩، وأبو داود، ح:٤٩٤٦ من حديث الأعمش به وسيأتي: ١٩٣٠ * وفي الباب عن عقبة بن عامر [أبو داود، ح:٤٨٩٢] وابن عمر [يأتي:١٤٢٦].

1426. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "The Muslim is the brother of the Muslim, he doesn't oppress him and doesn't put him into ruin, and whoever is concerned for the needs of his brother, Allāh is concerned

١٤٢٦ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ عُقَيْلٍ، عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنْ أَبِيهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «الْمُسْلِمُ أَخُو الْمُسْلِمِ لَا يَظْلِمُهُ ولَا يُسْلِمُهُ ومَنْ كَانَ فِي

حَاجَةِ أَخِيهِ كانَ اللهُ فِي حَاجَتِهِ ومَنْ فَرَّجَ عَنْ مُسْلِمٍ كُرْبَةً فَرَّجَ اللهُ عَنْهُ كُرْبَةً مِنْ كُرَبِ يَوْمِ الْقِيَامَةِ ومَنْ سَتَرَ مُسْلِمًا سَتَرَهُ اللهُ يَوْمَ الْقِيَامَةِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ ابْنِ عُمَرَ.

for his needs, and whoever relieves a Muslim of a burden, Allāh will relieve him of a burden from the burdens of the Day of Judgement and whoever covers (the faults of) a Muslim, Allāh will cover (his faults) on the Day of Judgement." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* as a narration of Ibn 'Umar.

تخريج: وأخرجه البخاري، الإكراه، باب يمين الرجل لصاحبه أنه أخوه إذا خاف عليه القتل أو نحوه، ح:٦٩٥١، ٢٤٤٢ من حديث الليث بن سعد به.

(المعجم ٤) - بَابُ مَا جَاءَ فِي التَّلْقِينِ فِي الْحَدِّ (التحفة ٤)

Chapter 4. What Has Been Related About Prompting In Cases Of The Legal Punishments

١٤٢٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ لِمَاعِزِ بْنِ مَالِكٍ: «أَحَقٌّ مَا بَلَغَنِي عَنْكَ؟» قَالَ: مَا بَلَغَكَ عَنِّي؟ قَالَ: «بَلَغَنِي أَنَّكَ وَقَعْتَ عَلَى جَارِيَةِ آلِ فُلَانٍ». قَالَ: نَعَمْ. فَشَهِدَ أَرْبَعَ شَهَادَاتٍ فَأَمَرَ بِهِ فَرُجِمَ. [قَالَ:] وَفِي الْبَابِ عَنِ السَّائِبِ بْنِ يَزِيدَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ. ورَوَى شُعْبَةُ هٰذَا الْحَدِيثَ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ مُرْسَلًا ولَمْ يَذْكُرْ فِيهِ عَنِ ابْنِ عَبَّاسٍ.

1427. Ibn 'Abbās narrated that the Prophet ﷺ said to Mā'iz bin Mālik: "Is what has reached me about you true?" He said: "What has reached you about me?" He said: "It has reached me that you had relations with the slave-maid of the family of so-and-so." He said: "Yes." So he testified four times, and he gave the order that he be stoned. (*Ṣaḥīḥ*)

[He said:] There is something on this topic from As-Sā'ib bin Zaid.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ḥadīth*. Shu'bah reported this *Ḥadīth* from Simāk bin Ḥarb, from Sa'eed bin Jubair in *Mursal* form without mentioning Ibn 'Abbās in it.

تخريج: وأخرجه مسلم، الحدود، باب من اعترف على نفسه بالزنى، ح:١٦٩٣/١٩ عن قتيبة به * وفي الباب عن السائب بن يزيد [الطبراني في الكبير:٧/ ١٥٧، ح:٦٦٨٤].

Comments:

The Prophet ﷺ suggested to him a way to escape by asking him in a question, as it is clear in the narration of Ibn Abbās (*Al-Bukhārī* 6824)

Chapter 5. What Has Been Related About Averting The Legal Punishments From The One Who Confessed If He Changes His Mind

(المعجم ٥) - بَابُ مَا جَاءَ فِي دَرْءِ الْحَدِّ، عَنِ الْمُعْتَرِفِ إِذَا رَجَعَ (التحفة ٥)

1428. Abū Hurairah narrated: "Mā'iz Al-Aslamī came to the Messenger of Allāh ﷺ and said that he had committed adultery, so he ﷺ turned away from him. Then he approached from his other side and said: '[O Messenger of Allāh!] I have committed adultery.' So he turned away from him. Then he came from his other side and said: 'O Messenger of Allāh! I have committed adultery.' So he gave the order (for stoning) upon the fourth time. He was taken to Al-Harrah and stoned with rocks. Upon being hit by the rocks, he ran swiftly until he passed a man with a camel whip who beat him with it, and the people beat him until he died. They mentioned to the Messenger of Allāh ﷺ, that he ran upon feeling the rocks at the time of death. So the Messenger of Allāh ﷺ said: 'Why didn't you leave him?'" (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*. It has been reported through more than one route from Abū Hurairah. This *Ḥadīth* has been reported from Az-Zuhrī, from Abū Salamah, from Jābir bin 'Abdullāh from the Prophet ﷺ and it is similar.

١٤٢٨ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا عَبْدَةُ ابْنُ سُلَيْمَانَ عَنْ مُحَمَّدِ بْنِ عَمْرٍو: حَدَّثَنَا أَبُو سَلَمَةَ عَنْ أَبِي هُرَيْرَةَ قَالَ: جَاءَ مَاعِزٌ الأَسْلَمِيُّ إِلَى رَسُولِ اللهِ ﷺ فَقَالَ: إِنَّهُ قَدْ زَنَى فَأَعْرَضَ عَنْهُ ثُمَّ جَاءَ مِنَ الشِّقِّ الآخَرِ. فَقَالَ: [يَا رَسُولَ اللهِ] إِنَّهُ قَدْ زَنَى فَأَعْرَضَ عَنْهُ ثُمَّ جَاءَ مِنَ الشِّقِّ الآخَرِ فَقَالَ: يَا رَسُولَ اللهِ! إِنَّهُ قَدْ زَنَى فَأَمَرَ بِهِ فِي الرَّابِعَةِ فَأُخْرِجَ إِلَى الحَرَّةِ فَرُجِمَ بِالحِجَارَةِ فَلَمَّا وَجَدَ مَسَّ الحِجَارَةِ فَرَّ يَشْتَدُّ حَتَّى مَرَّ بِرَجُلٍ مَعَهُ لَحْيُ جَمَلٍ فَضَرَبَهُ بِهِ وضَرَبَهُ النَّاسُ حَتَّى مَاتَ، فَذَكَرُوا ذَلِكَ لِرَسُولِ اللهِ ﷺ أَنَّهُ فَرَّ حِينَ وَجَدَ مَسَّ الحِجَارَةِ ومَسَّ المَوْتِ، فَقَالَ رَسُولُ اللهِ ﷺ: «هَلَّا تَرَكْتُمُوهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ. قَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ. ورُوِيَ هٰذَا الْحَدِيثُ عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ عَنِ النَّبِيِّ ﷺ نَحْوَ هٰذَا.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، الحدود، باب الرجم، ح:٢٥٥٤ من حديث محمد بن عمرو الليثي به وصححه الحاكم على شرط مسلم:٤/٣٦٣ ووافقه الذهبي(!) ورواه البخاري، ح:٥٢٧١ ومسلم، ح:١٦٩١/١٦ من حديث أبي سلمة عن أبي هريرة به.

1429. Jābir bin 'Abdullāh narrated: "A man from the tribe of Aslam came to the Prophet ﷺ and confessed to adultery. He turned away from him, then he confessed (again). Then he turned away from him (again) until he had testified against himself four times. So the Prophet ﷺ said: "Are you insane?" He said: "No" He said: "Are you married?" He said: "Yes." So he gave the order and he was stoned at the *Muṣalla*. He ran when he was struck by the stones, and he was caught and stoned until he died. So the Messenger of Allāh ﷺ spoke well of him but he did not perform the (funeral) *Ṣalāt* for him. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This *Ḥadīth* is acted upon according to some of the people of knowledge, the punishment is carried out for one who confesses against himself regarding adultery when he does so four times. This is the view of Aḥmad and Isḥāq. Some of the people of knowledge said that the punishment is carried out when he affirms it one time. This is the view of Mālik bin Anas and Ash-Shāfi'ī. Those who hold this view use the *Ḥadīth* of Abū Hurairah and Zaid bin Khālid as proof, in which two men disputed with the Messenger of Allāh ﷺ. One of them said: "O

١٤٢٩ - حَدَّثَنَا بِذَلِكَ الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ: أَنَّ رَجُلًا مِنْ أَسْلَمَ جَاءَ النَّبِيَّ ﷺ فَاعْتَرَفَ بِالزِّنَا فَأَعْرَضَ عَنْهُ ثُمَّ اعْتَرَفَ فَأَعْرَضَ عَنْهُ حَتَّى شَهِدَ عَلَى نَفْسِهِ أَرْبَعَ شَهَادَاتٍ. فَقَالَ النَّبِيُّ ﷺ: «أَبِكَ جُنُونٌ»؟ قَالَ: لَا، قَالَ: «أَحْصَنْتَ؟» قَالَ: نَعَم. فَأَمَرَ بِهِ فَرُجِمَ فِي الْمُصَلَّى. فَلَمَّا أَذْلَقَتْهُ الحِجَارَةُ فَرَّ فَأُدْرِكَ فَرُجِمَ حَتَّى مَاتَ. فَقَالَ لَهُ رَسُولُ اللهِ ﷺ: خَيْرًا، وَلَمْ يُصَلِّ عَلَيْهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَالْعَمَلُ عَلَى هٰذَا الحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، أَنَّ الْمُعْتَرِفَ بِالزِّنَا إِذَا أَقَرَّ عَلَى نَفْسِهِ أَرْبَعَ مَرَّاتٍ أُقِيمَ عَلَيْهِ الحَدُّ. وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ. وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: إِذَا أَقَرَّ عَلَى نَفْسِهِ مَرَّةً أُقِيمَ عَلَيْهِ الْحَدُّ. وَهُوَ قَوْلُ مَالِكِ بْنِ أَنَسٍ وَالشَّافِعِيِّ. وحُجَّةُ مَنْ قَالَ هٰذَا القَوْلَ حَدِيثُ أَبِي هُرَيْرَةَ، وَزَيْدِ بْنِ خَالِدٍ أَنَّ رَجُلَيْنِ اخْتَصَمَا إِلَى رَسُولِ اللهِ ﷺ. فَقَالَ أَحَدُهُمَا: يَا رَسُولَ اللهِ! إِنَّ ابْنِي زَنَا بِامْرَأَةِ هٰذَا، الْحَدِيثَ بِطُولِهِ. وقَالَ النَّبِيُّ ﷺ: «اغْدُ يَا أُنَيْسُ عَلَى

Messenger of Allāh! My son had unlawful sexual relations with this man's wife." And it is a lengthy *Hadīth*. The Prophet ﷺ said: "O Unais! Go to this man's wife and if she confesses then stone her." And he did not say: "If she confesses four times."

امْرَأَةِ هٰذَا فَإِنِ اعْتَرَفَتْ فَارْجُمْهَا» ولَمْ يَقُلْ: فَإِنِ اعْتَرَفَتْ أَرْبَعَ مَرَّاتٍ.

تخريج: متفق عليه، وأخرجه البخاري، الحدود، باب الرجم بالمصلى، ح: ٦٨٢٠ ومسلم، ح: ١٦٩١ من حديث عبدالرزاق به.

Comments:

An adulterer who admits his sin, but his sin is still hidden from the people, should be given a chance to refuse to admit his sin. If he refuses, he should be spared the punishment.

Chapter 6. What Has Been Related About It Being Disliked To Intercede In Legal Punishments

(المعجم ٦) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَنْ يُشْفَعَ فِي الْحُدُودِ؟ (التحفة ٦)

1430. 'Āishah narrated: "The Quraish were troubled by the affair of a woman from the tribe of Makhzūm who stole. So they said: 'Who will speak about her to the Messenger of Allāh ﷺ?' They said: 'Who can do it other than Usāmah bin Zaid, the one dear to the Messenger of Allāh?' So Usāmah spoke with him. the Messenger of Allāh ﷺ said: 'Do you intercede about a penalty from Allāh's penalties?" Then he stood up and adressed the people saying: 'Those before you were only destroyed because they used to leave a noble person if he stole. And if a weak person stole they would establish the penalty upon him. And by Allāh! If Fāṭimah bint Muḥammad stole, then I would cut off her hand.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on

١٤٣٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ، عَنْ عَائِشَةَ أَنَّ قُرَيْشًا [أَهَمَّهُمْ] شَأْنُ الْمَرْأَةِ الْمَخْزُومِيَّةِ الَّتِي سَرَقَتْ. فَقَالُوا: مَنْ يُكَلِّمُ فِيهَا رَسُولَ اللهِ ﷺ؟ فَقَالُوا: مَنْ يَجْتَرِىءُ عَلَيْهِ إِلَّا أُسَامَةُ بْنُ زَيْدٍ حِبُّ رَسُولِ اللهِ ﷺ فَكَلَّمَهُ أُسَامَةُ. فَقَالَ رَسُولُ اللهِ ﷺ: «أَتَشْفَعُ فِي حَدٍّ مِنْ حُدودِ اللهِ؟» ثُمَّ قَامَ فَاخْتَطَبَ فَقَالَ: «إِنَّمَا أَهْلَكَ الَّذِينَ مِنْ قَبْلِكُمْ أَنَّهُمْ كَانُوا إِذَا سَرَقَ فِيهِمُ الشَّرِيفُ تَرَكُوهُ. وإِذَا سَرَقَ فِيهِمُ الضَّعِيفُ أَقَامُوا عَلَيْهِ الحَدَّ، وايْمُ اللهِ لَوْ أَنَّ فَاطِمَةَ بِنْتَ مُحَمَّدٍ سَرَقَتْ لَقَطَعْتُ يَدَهَا». [قَالَ:] وَفِي الْبَابِ عَنْ مَسْعُودِ بْنِ العَجْمَاءِ [وَيُقَالُ: ابْنُ الْأَعْجَمِ] وابْنُ عُمَرَ وجَابِرٍ.

[**قَالَ أَبُو عِيسَى:**] حَدِيثُ عَائِشَةَ حَدِيثٌ

حَسَنٌ صَحِيحٌ [وَيُقَالُ مَسْعُودُ بْنُ الْأَعْجَمِ وَلَهُ هٰذَا الْحَدِيثَ].

this topic from Mas'ūd bin Al-'Ajmā' [and they call him Ibn Al-A'jam], Ibn 'Umar and Jābir.

[Abū 'Eīsā said:] The *Hadīth* of 'Āishah is a *Hasan Sahīh Hadīth*. [And they call him Mas'ūd bin Al-A'jam, and he narrated this *Hadīth*.]

تخريج: متفق عليه، وأخرجه البخاري، أحاديث الأنبياء، باب (٥٤)، ح:٣٤٧٥ ومسلم، ح:١٦٨٨ عن قتيبة به * وفي الباب عن مسعود [ابن ماجه، ح:٢٥٤٨] وابن عمر [أبو داود، ح:٣٥٩٧] وجابر [مسلم، ح:١٦٨٩].

Comments:

The name of this woman was Fātimah bint Aswad bin 'Abdullāh. She was the niece of Abū Salama. In the beginning, she used to borrow from people and did not return the borrowed money or other things, moreover she would deny that she had borrowed anything. She developed the habit of stealing, and her hand was cut off due to this habit. According to most of the scholars the punishment of cutting the hand cannot be imposed on refusal of return of the borrowed things, but in the view of Imām Ahmad and the *Zāhiriyah*, this punishment can be imposed if the borrowed things are not returned. (*Minnat Al-Mun'im* v.3. p. 138.)

Chapter 7. What Has Been Related About Confirming Stoning

(المعجم ٧) - بَابُ مَا جَاءَ فِي تَحْقِيقِ الرَّجْمِ (التحفة ٧)

1431. 'Umar bin Al-Khattāb said: "The Messenger of Allāh ﷺ stoned, Abū Bakr stoned, and I stoned. If I didn't dislike that I add to the Book of Allāh, I would have written it in the *Mushaf*, for I fear that there will come a people and they will not find it in the Book of Allāh, so they will disbelieve in it." (*Sahīh*)

He said: There is something about this from 'Alī.

١٤٣١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْحَاقُ بْنُ يُوسُفَ الْأَزْرَقُ عَنْ دَاوُدَ بْنِ أَبِي هِنْدٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ عُمَرَ بْنِ الْخَطَّابِ. قَالَ: رَجَمَ رَسُولُ اللهِ ﷺ ورَجَمَ أَبُو بَكْرٍ ورَجَمْتُ. وَلَوْلَا أَنِّي أَكْرَهُ أَنْ أَزِيدَ فِي كِتَابِ اللهِ لَكَتَبْتُهُ فِي الْمُصْحَفِ فَإِنِّي قَدْ خَشِيتُ أَنْ تجِيءَ أَقْوَامٌ فَلَا يَجِدُونَهُ فِي كِتَابِ اللهِ فَيَكْفُرُونَ بِهِ قَالَ: وَفِي الْبَابِ عَنْ عَلِيٍّ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. ورُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ عُمَرَ.

تخريج: **[صحيح]** وأخرجه أحمد: ١/ ٣٦،٤٣ ومالك في الموطأ: ٢/ ٨٢٤ من حديث سعيد ابن المسيب به وسعيد سمع من عمر رضي الله عنه وللحديث شواهد كثيرة عند البخاري ومسلم

وأحمد: ١/ ٥٥، ٥٦ وغيرهم * وفي الباب عن علي [البخاري، ح: ٦٨١٢].

Comments:

The fear, 'Umar had apprehended, proved true. The Khawārij, the Mu'tazilah and other modernists of today are against stoning.

1432. 'Umar bin Al-Khaṭṭāb said: "Verily Allāh sent Muḥammad ﷺ with the truth, and he revealed the Book to him. Among what was revealed to him was the *Āyah* of stoning. So the Messenger of Allāh ﷺ stoned, and we stoned after him. I fear that time will pass over the people such that somone will say 'We do not see stoning in the Book of Allāh.' They will be misguided by leaving an obligation which Allāh revealed. Indeed stoning is the retribution for the adulterer if he was married and the evidence has been established, or due to pregnancy, or confession." (*Ṣaḥīḥ*)

[There is something on this topic from 'Alī. Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [It has been reported through more than one route from 'Umar bin Al-Khaṭṭāb.]

١٤٣٢ - حَدَّثَنَا سَلَمَةُ بْنُ شَبِيبٍ وإِسْحَاقُ ابْنُ مَنْصُورٍ والحَسَنُ بْنُ عَلِيٍّ الخَلَّالُ وغَيْرُ وَاحِدٍ. قَالُوا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ ابْنِ عُتْبَةَ، عَنِ ابْنِ عَبَّاسٍ، عَنْ عُمَرَ بْنِ الخَطَّابِ قَالَ: إِنَّ اللهَ بَعَثَ مُحَمَّدًا ﷺ بِالْحَقِّ وأَنْزَلَ عَلَيْهِ الكِتَابَ فَكَانَ فِيمَا أَنْزَلَ عَلَيْهِ آيَةُ الرَّجْمِ فَرَجَمَ رَسُولُ اللهِ ﷺ وَرَجَمْنَا بَعْدَهُ وإِنِّي خَائِفٌ أَنْ يَطُولَ بِالنَّاسِ زَمَانٌ فَيَقُولَ قَائِلٌ لَا نَجِدُ الرَّجْمَ فِي كِتَابِ اللهِ فَيَضِلُّوا بِتَرْكِ فَرِيضَةٍ أَنْزَلَهَا اللهُ. أَلَا وإِنَّ الرَّجْمَ حَقٌّ عَلَى مَنْ زَنَى إِذَا أَحْصَنَ وقَامَتِ البَيِّنَةُ، أَوْ كَانَ حَمْلٌ أَوِ الاعْتِرَافُ.

[وَفِي الْبَاب عَنْ عَلِيٍّ. قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [وَرَوَى مِنْ غَيْرِ وَجْهٍ، عَنْ عُمَرَ رَضِيَ اللهُ عَنْهُ].

تخريج: متفق عليه، وأخرجه البخاري، الاعتصام بالكتاب والسنة، باب ما ذكر النبي ﷺ وحض على اتفاق أهل العلم . . . إلخ، ح: ٧٣٢٣ من حديث معمر ومسلم، ح: ١٦٩١ من حديث الزهري به.

Comments:

Pregnancy will be deemed a proof of fornication if the woman is unmarried or her husband blames her. Though the recitation of this Verse is abrogated but its continuity is not essential for the implication. the presence of a Verse in the Qur'ān is considered a proof of its validity and continuity, therefore, rejecting a *Ṣaḥīḥ* narration by declaring it information without any proof is not logical thinking.

Chapter 8. What Has Been Related About Stoning The Married Adulterer

(المعجم ٨) - بَابُ مَا جَاءَ فِي الرَّجْمِ عَلَى الثَّيِّبِ (التحفة ٨)

1433. 'Ubaidullāh bin 'Abdullāh bin 'Utbah narrated that he heard from Abū Hurairah, Zaid bin Khālid, and Shibl, that they were with the Prophet ﷺ and two men came to him disputing. So one of them stood before him and said: "I ask you by Allāh, O Messenger of Allāh! Only that you would judge between us by the Book of Allāh." So his disputant said – and he was more eloquent than him: "I agree O Messenger of Allāh! Judge between us by the Book of Allāh, and allow me to speak. My son was a servant for this man and he committed adultery with his wife. So they told me that my son was to be stoned. I paid him one hundred female sheep and a female slave. Then I met some people from the people of knowledge and they said that my son was to be lashed one hundred times, and to be banished for a year and that stoning is only for this man's wife." So the Prophet ﷺ said: "By the One in whose Hand is my soul! I will judge between you two by the Book of Allāh. The one hundred female sheep and the female slave should be returned to you. For your son is one hundred lashes and basnishment for a year. O Unais! Go to this Man's wife, and if she confesses then stone her." He went to her and she confessed, so he stoned her. (*Sahīh*)

١٤٣٣ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ وَغَيْرُ وَاحِدٍ: حَدَّثَنَا [سُفْيَانُ] بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ [بْنِ عُتْبَةَ] سَمِعَهُ مِنْ أَبِي هُرَيْرَةَ وَزَيْدِ بْنِ خَالِدٍ وشِبْلٍ أَنَّهُمْ كَانُوا عِنْدَ النَّبِيِّ ﷺ فَأَتَاهُ رَجُلَانِ يَخْتَصِمَانِ فَقَامَ إِلَيْهِ أَحَدُهُمَا وقَالَ: أَنْشُدُكَ اللهَ يَا رَسُولَ اللهِ! لَمَّا قَضَيْتَ بَيْنَنَا بِكِتَابِ اللهِ. فَقَالَ خَصْمُهُ وكَانَ أَفْقَهَ مِنْهُ: أَجَلْ يَا رَسُولَ اللهِ! اقْضِ بَيْنَنَا بِكِتَابِ اللهِ وائْذَنْ لِي فَأَتَكَلَّمَ: إِنَّ ابْنِي كَانَ عَسِيفًا عَلَى هٰذَا فَزَنَى بِامْرَأَتِهِ فَأَخْبَرُونِي أَنَّ عَلَى ابْنِي الرَّجْمَ فَفَدَيْتُ مِنْهُ بِمِائَةِ شَاةٍ وَخَادِمٍ ثُمَّ لَقِيتُ نَاسًا مِنْ أَهْلِ الْعِلْمِ فَزَعَمُوا أَنَّ عَلَى ابْنِي جَلْدَ مِائَةٍ وتَغْرِيبَ عَامٍ وَإِنَّمَا الرَّجْمُ عَلَى امْرَأَةِ هٰذَا. فَقَالَ النَّبِيُّ ﷺ: «والَّذِي نَفْسِي بِيَدِهِ لأَقْضِيَنَّ بَيْنَكُمَا بِكِتَابِ اللهِ، المِائَةُ شَاةٍ والخَادِمُ رَدٌّ عَلَيْكَ، وعَلَىٰ ابْنِكَ جَلْدُ مِائَةٍ وتَغْرِيبُ عَامٍ، واغْدُ يَا أُنَيْسُ عَلَى امْرَأَةِ هٰذَا فَإِنِ اعْتَرَفَتْ فَارْجُمْهَا». فَغَدَا عَلَيْهَا فَاعْتَرَفَتْ فَرَجَمَهَا.

حَدَّثَنَا إِسْحَاقُ بْنُ مُوسَى الأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنِ ابْنِ شِهَابٍ، عنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ، عَنْ أَبِي هُرَيْرَةَ وزَيْدِ بْنِ خَالِدٍ الجُهَنِيِّ عَنِ النَّبِيِّ ﷺ نَحْوَهُ بِمَعْنَاهُ.

حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ

(Another chain) with similar. And (Another chain) with similar.

[He said:] There are narrations on this topic from Abū Bakr, 'Ubādah bin Aṣ-Ṣāmiṭ, Abū Hurairah, Abū Sa'eed, Ibn 'Abbās, Jābir bin Samurah, Hazzāl, Buraidah, Salamah bin Al-Muḥabbaq, Abū Barzah, and 'Imrān bin Ḥuṣain.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah and Zaid bin Khālid is a *Hasan Ṣaḥīḥ Ḥadīth*. This is how it was reported by Mālik bin Anas, Ma'mar and others from Az-Zuhrī, from 'Ubaidullāh bin 'Abdullāh [bin 'Utbah], from Abū Hurairah, and Zaid bin Khālid, from the Prophet ﷺ, they also reported with this chain from the Prophet ﷺ that he said; "If a slave commits adultery lash her, if she commits adultery the fourth time sell her, even for a piece of twisted rope." Sufyān bin 'Uyainah reported from Az-Zuhrī, from 'Ubaidullāh, from Abū Hurairah, Zaid bin Khālid and Shibl, and they said: "We were with the Prophet ﷺ." This is how Ibn 'Uyainah reported the two *Aḥādīth*, from Abū Hurairah, Zaid bin Khālid, and Shibl. But Ibn 'Uyainah's narration is mistaken; Sufyān bin 'Uyainah made the mistake of entering one *Ḥadīth* in another *Ḥadīth*. What is correct is what was reported by [Muḥammad bin Al-Walīd] Az-Zubaidī, Yūnus bin Yazīd, and the son of Az-Zuhrī's brother, from Az-Zuhrī, from 'Ubaidullāh, from Abū Hurairah and Zaid bin Khālid,

بِإِسْنَادِهِ نَحْوَ حَدِيثِ مَالِكٍ بِمَعْنَاهُ [قَالَ:] وَفِي الْبَابِ عَنْ أَبِي بَكْرٍ وعُبَادَةَ بْنِ الصَّامِتِ وأَبِي هُرَيْرَةَ وَأَبِي سَعِيدٍ وابْنِ عَبَّاسٍ وجَابِرِ ابْنِ سَمُرَةَ وهَزَّالٍ وبُرَيْدَةَ وسَلَمَةَ بْنِ الْمُحَبَّقِ وأَبِي بَرْزَةَ وعِمْرَانَ بْنِ حُصَيْنٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ وزَيْدِ ابْنِ خَالِدٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. وهٰكَذَا رَوَى مَالِكُ بْنُ أَنَسٍ ومَعْمَرٌ وغَيْرُ واحِدٍ عَنِ الزُّهْرِيِّ عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ [بْنِ عُتْبَةَ] عَنْ أَبِي هُرَيْرَةَ وزَيْدِ بْنِ خَالِدٍ عَنِ النَّبِيِّ ﷺ وَرَوَوْا بِهٰذَا الْإِسْنَادِ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «إِذَا زَنَتِ الْأَمَةُ فَاجْلِدُوهَا فَإِنْ زَنَتْ فِي الرَّابِعَةِ فَبِيعُوهَا ولَوْ بِضَفِيرٍ». وَرَوَى سُفْيَانُ ابْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ، عَنْ أَبِي هُرَيْرَةَ وزَيْدِ بْنِ خَالِدٍ وشِبْلٍ قَالُوا: كُنَّا عِنْدَ النَّبِيِّ ﷺ. هٰكَذَا رَوَى ابْنُ عُيَيْنَةَ الْحَدِيثَيْنِ جَمِيعًا عَنْ أَبِي هُرَيْرَةَ وزَيْدِ بْنِ خَالِدٍ وَشِبْلٍ وحَدِيثُ ابْنِ عُيَيْنَةَ وَهَمٌ، وَهِمَ فِيهِ سُفْيَانُ بْنُ عُيَيْنَةَ أَدْخَلَ حَدِيثًا فِي حَدِيثٍ. والصَّحِيحُ مَا رَوَى [مُحَمَّدُ بْنُ الْوَلِيدِ] الزُّبَيْدِيُّ ويُونُسُ بْنُ يَزِيدَ وابْنُ أَخِي الزُّهْرِيِّ، عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ، عَنْ أَبِي هُرَيْرَةَ. وزَيْدِ بْنِ خَالِدٍ عَنِ النَّبِيِّ ﷺ قَالَ: «إِذَا زَنَتِ الْأَمَةُ [فَاجْلِدُوهَا]». والزُّهْرِيُّ عَنْ عُبَيْدِ اللهِ، عَنْ شِبْلِ بْنِ خَالِدٍ، عَنْ عَبْدِ اللهِ ابْنِ مَالِكٍ الْأَوْسِيِّ عَنِ النَّبِيِّ ﷺ قَالَ: «إِذَا زَنَتِ الْأَمَةُ». وهٰذَا الصَّحِيحُ عِنْدَ أَهْلِ

from the Prophet ﷺ, that he said: "When the female slave commits adultery [then lash her]." And Az-Zuhrī reported from 'Ubaidullāh from Shibl bin Khālid, from 'Abdullāh bin Mālik Al-Awsī, from the Prophet ﷺ, that he said: "When the female slave commits adultery." And this is what is correct according to the people of *Hadīth*. Shibl bin Khālid did not see the Prophet ﷺ, Shibl only reported it from 'Abdullāh bin Mālik Al-Awsī, from the Prophet ﷺ. This is what is correct, and the narration of Ibn 'Uyainah is not preserved. It was related that he said: "Shibl bin Hāmid" and this is a mistake, he is only Shibl bin Khālid, and he is also called Shibl bin Khulaid.[1]

الْحَدِيثِ. وشِبْلُ بْنُ خَالِدٍ لَمْ يُدْرِكِ النَّبِيَّ ﷺ. إِنَّمَا رَوَى شِبْلٌ، عَنْ عَبْدِ اللهِ بْنِ مَالِكٍ الْأَوْسِيِّ عَنِ النَّبِيِّ ﷺ. وهٰذَا الصَّحِيحُ وَحَدِيثُ ابْنِ عُيَيْنَةَ غَيْرُ مَحْفُوظٍ. ورُوِيَ عَنْهُ أَنَّهُ قَالَ: شِبْلُ بْنُ حَامِدٍ، وهُوَ خَطَأٌ إِنَّمَا هُوَ شِبْلُ بْنُ خَالِدٍ ويُقَالُ أَيْضًا: شِبْلُ بْنُ خُلَيْدٍ.

تخريج: متفق عليه، أخرجه البخاري، الحدود، باب الاعتراف بالزنا، ح:٦٨٢٧، ٦٨٢٨ من حديث سفيان بن عيينة ومسلم، ح:١٦٩٧، ١٦٩٨ من حديث الزهري به * حديث مالك في الموطأ: ٢/ ٨٢٢، ورواه البخاري، ح:٦٦٣٣، ٦٦٣٤ ومسلم من حديثه * حديث قتيبة عن الليث ابن سعد رواه مسلم، ح:١٦٩٧، ١٦٩٨/ ٢٥ * وفي الباب عن أبي بكرة [أبو داود، ح:٤٤٤٣] وعبادة بن الصامت [يأتي: ١٤٣٤] وأبي هريرة [البخاري، ح:٥٢٧١ ومسلم، ح:١٦٩١/ ١٦] وأبي سعيد [مسلم، ح:١٦٩٤] وابن عباس [البخاري، ح:٦٨٢٤] وجابر بن سمرة [مسلم، ح:١٦٩٢] وهزال [أحمد: ٥/ ٢١٧ والنسائي في الكبرى] وبريدة [مسلم، ح:١٦٩٥] وسلمة بن المحبق [أحمد: ٣/ ٤٧٦] وأبي برزة [أحمد: ٤/ ٤٢٣ وابن أبي شيبة: ١٠/ ٧٨، ح:٨٨٣ وأبو يعلى: ٧٤٣٨] وعمران بن حصين [يأتي: ١٤٣٥] وأبي بكر [أحمد: ١/ ٨].

Comments:

The Book of Allāh (here) means the Commands of Allāh and the decisions according to it. As the orders of stoning to death are not written in the Qur'ān, similarly the orders of exile for one year are also not written in the Qur'ān, but it is a Command of Allāh, because obeying the Prophet ﷺ is obeying Allāh.

1434. 'Ubādah bin As-Sāmit narrated: "The Messenger of Allāh ﷺ said: 'Take from me. For Allāh

١٤٣٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا هُشَيْمٌ عَنْ مَنْصُورِ بْنِ زَاذَانَ، عَنِ الحَسَنِ، عَنْ حِطَّانَ

[1] See no. 1440 also.

has a way made for them: For the married person who commits adultery with a married person is one hundred lashes, then stoning. And for the virgin who commits adultery with a virgin is one hundred lashes and banishment for a year." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ. Among them were 'Alī bin Abī Tālib, Ubayy bin Ka'b, 'Abdullāh bin Mas'ūd, and others. They said the married is lashed and stoned. This was followed by some of the people of knowledge, and it is the view of Ahmad and Ishāq. Some of the people of knowledge among the Companions of the Prophet ﷺ – among them were Abū Bakr and others – said that the married person is only stoned, not lashed. Similar to this has been reported from the Prophet ﷺ in a *Hadīth* other than this one, in the story of Mā'iz and others, in which he ordered stoning and did not order that he be lashed before stoning. This is acted upon according to some of the people of knowledge. It is the view of Sufyān Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, and Ahmad.

ابْنِ عَبْدِ اللهِ، عَنْ عُبَادَةَ بْنِ الصَّامِتِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «خُذُوا عَنِّي فَقَدْ جَعَلَ اللهُ لَهُنَّ سَبِيلًا: الثَّيِّبُ بِالثَّيِّبِ جَلْدُ مِائَةٍ ثُمَّ الرَّجْمُ، والبِكْرُ بِالبِكْرِ جَلْدُ مائَةٍ ونَفْيُ سَنَةٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ مِنْهُمْ عَلِيُّ بْنُ أَبِي طَالِبٍ وأُبَيُّ بْنُ كَعْبٍ وعَبْدُ اللهِ بْنُ مَسْعُودٍ وغَيْرُهُمْ. قَالُوا: الثَّيِّبُ تُجْلَدُ وتُرْجَمُ وَإِلَى هٰذَا ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ وهُوَ قَوْلُ إِسْحَاقَ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ مِنْهُمْ أَبُو بَكْرٍ وعُمَرُ وغَيْرُهُمَا: الثَّيِّبُ إِنَّمَا عَلَيْهِ الرَّجْمُ ولَا يُجْلَدُ؟ وقَدْ رُوِيَ عَنِ النَّبِيِّ ﷺ مِثْلُ هٰذَا فِي غَيْرِ حَدِيثٍ فِي قِصَّةِ مَاعِزٍ وغَيْرِهِ أَنَّهُ أَمَرَ بالرَّجْمِ وَلَمْ يَأْمُرْ أَنْ يُجْلَدَ قَبْلَ أَنْ يُرْجَمَ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وابْنِ الْمُبَارَكِ والشَّافِعِيِّ وأَحْمَدَ.

تخريج: وأخرجه مسلم، الحدود، باب حد الزنى، ح: ١٦٩٠ من حديث هشيم به.

Comments:

Most of the *A'immah*; Mālik, Ash-Shāfi'ī, and Ahmad, are of the opinion that a married adulterer should not be lashed before the punishment of stoning to death. An-Nakha'ī, Al-Awzā'ī, Ath-Thawrī also have the same opinion.

According to Alī, Ubay bin Ka'b, Abū Dharr, Ḥasan Al-Baṣrī, Isḥāq, Dāwūd and Ibn Mundhir, first he should be whipped, and then stoned.

Chapter 9. Something Else About That (Refraining From Stoning The Pregnant Woman Until She Gives Birth)

(المعجم ٩) - بَابُ [تَرَبُّصِ الرَّجْمِ بِالْحُبْلَى حَتَّى تَضَعَ] (التحفة ٩)

1435. 'Imrān bin Ḥuṣain narrated: "A woman from Juhainah confessed before the Prophet ﷺ that she had comitted adultery, and she said: 'I am pregnant.' So the Prophet ﷺ called for her guardian and said: 'Be good to her and if she gives birth to her child then tell me.' So he did so, and then he ﷺ gave the order that her clothes be bound tightly around her. Then he ordered her to be stoned and she was stoned. Then he performed (funeral) *Ṣalāt* for her. So 'Umar bin Al-Khaṭṭāb said to him: 'O Messenger of Allāh! You stoned her then you prayed for her?!' He said: 'She has repented a repentance that, if distributed among seventy of the people of Al-Madīnah, it would have sufficed them. Have you ever seen something more virtuous than her sacrificing herself for the sake of Allāh?''' (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Ṣaḥīḥ*.

١٤٣٥ - حَدَّثَنَا الحَسَنُ بْنُ عَلِيٍّ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي المُهَلَّبِ، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ أَنَّ امْرَأَةً مِنْ جُهَيْنَةَ اعْتَرَفَتْ عِنْدَ النَّبِيِّ ﷺ بِالزِّنَا وقَالَتْ أَنَا حُبْلَى. فَدَعَا النَّبِيُّ ﷺ وَلِيَّهَا فَقَالَ: «أَحْسِنْ إِلَيْهَا فَإِذَا وَضَعَتْ حَمْلَهَا فَأَخْبِرْنِي» فَفَعَلَ فَأَمَرَ بِهَا فَشُدَّتْ عَلَيْهَا ثِيَابُهَا ثُمَّ أَمَرَ بِرَجْمِهَا فَرُجِمَتْ ثُمَّ صَلَّى عَلَيْهَا فَقَالَ لَهُ عُمَرُ بْنُ الخَطَّابِ: يَا رَسُولَ اللهِ! رَجَمْتَهَا ثُمَّ تُصَلِّي عَلَيْهَا؟! فَقَالَ: «لَقَدْ تَابَتْ تَوْبَةً لَو قُسِمَتْ بَيْنَ سَبْعِينَ مِنْ أَهْلِ المَدِينَةِ لَوَسِعَتْهُمْ، وهَلْ وَجَدْتَ شَيْئًا أَفْضَلَ مِنْ أَنْ جَادَتْ بِنَفْسِهَا لله».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ.

تخريج: وأخرجه مسلم، الحدود، باب من اعترف على نفسه بالزنى، ح:١٦٩٦ من حديث يحيى بن أبي كثير به.

Comments:

The funeral prayer should be performed after stoning a fornicator. Most of the scholars support this point of view. According to Imām Mālik and Imām Aḥmad, elites of the society, the ruler, or head of the town, or city, should not perform the funeral prayer of a fornicator, but this is against a *Ṣaḥīḥ* and

clear narration. (*Ṣaḥīḥ Muslim* with *An-Nawawī*. v.2. p. 68.) It is agreed upon that a woman will not be stoned to death until the birth of the child. This is to save the child who is innocent.

Chapter 10. What Has Been Related About Stoning The People Of The Book

(المعجم ١٠) - بَابُ مَا جَاءَ فِي رَجْمِ أَهْلِ الْكِتَابِ (التحفة ١٠)

1436. Ibn 'Umar narrated that the Messenger of Allāh ﷺ stoned a Jew and a Jewess. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There is a long story in this *Ḥadīth*, and this *Ḥadīth* is *Ḥasan Ṣaḥīḥ*

١٤٣٦ - حَدَّثَنَا إِسْحَاقُ بْنُ مُوسَى الأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ رَجَمَ يَهُودِيًّا وَيَهُودِيَّةً.

[قَالَ أَبُو عِيسَى:] وَفِي الحَدِيثِ قِصَّةٌ، وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الحدود، باب أحكام أهل الذمة وإحصانهم إذا زنوا، رفعوا إلى الإمام، ح: ٦٨٤١ ومسلم، ح: ١٦٩٩ من حديث مالك به وهو في الموطأ: ٢/ ٨١٩ بطوله.

Comments:

This narration is agreed upon and the events mentioned are in *Ṣaḥīḥ Al-Bukhārī* and *Ṣaḥīḥ Muslim*. A Jewish couple was brought to the presence of the Prophet ﷺ. They had committed illegal sexual intercourse. The Messenger of Allāh went to their quarter and asked them, "What do you find in the Torah as regarding the legal punishment of an adulterer?" They replied, "We blacken their face and humiliate them. We also announce their crime in public and lash them." The Prophet said, "Bring the Torah and prove your statement if you are truthful." They brought and opened the Torah and started reading it, when the reader reached the verse of *Rajm'*-stoning, he placed his hand over this verse, and read the verses preceding and following it. 'Abdullāh bin Salām was beside the Prophet ﷺ, he asked the reader to lift his hand from the page, and he moved away his hand and the verse of stoning was written there. The Prophet gave the order that both of them should be stoned to death. (*Ṣaḥīḥ Muslim* v. 2. p. 69.)

1437. Jābir bin Samurah narrated that the Prophet ﷺ stoned a Jew and a Jewess. (***Ṣaḥīḥ***)

He said: There are narrations on this topic from Ibn 'Umar, Al-Barā', Jābir, Ibn Abī Awfā, 'Abdullāh bin Al-Ḥārith bin Jaz', and Ibn 'Abbās.

١٤٣٧ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا شَرِيكٌ عَنْ سِمَاكِ بْنِ حَرْبٍ، عَنْ جَابِرِ بْنِ سَمُرَةَ: أَنَّ النَّبِيَّ ﷺ رَجَمَ يَهُودِيًّا وَيَهُودِيَّةً.

قَالَ: وفِي الْبَابِ عَنِ ابْنِ عُمَرَ والبَرَاءِ وَجَابِرٍ وابْنِ أَبِي أَوْفَى وعَبْدِ اللهِ بْنِ الحَارِثِ ابْنِ جَزْءٍ وابْنِ عَبَّاسٍ.

[Abū 'Eīsā said:] The *Hadīth* of Jābir bin Samurah is a *Hasan Gharīb Hadīth*. This is acted upon according to most of the people of knowledge, they said that when the people of the Book dispute and they bring their case to the Muslim judge, then he judges between them according to the Book and the *Sunnah* with the laws of (*Sharī'ah*) the Muslims. This is the view of Aḥmad and Isḥāq. Some of them said that the punishment of adultery is not carried out on them. But the first view is more correct.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرِ بْنِ سَمُرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ قَالُوا: إِذَا اخْتَصَمَ أَهْلُ الكِتَابِ وتَرَافَعُوا إِلَى حُكَّامِ المُسْلِمِينَ حَكَمُوا بَيْنَهُمْ بالكِتَابِ والسُّنَّةِ وَبِأَحْكَامِ المُسْلِمِينَ. وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ وقَالَ بَعْضُهُمْ: لَا يُقَامُ عَلَيْهِمُ الحَدُّ فِي الزِّنَا. والقَوْلُ الْأَوَّلُ أَصَحُّ.

تخريج: [صحيح] وأخرجه ابن ماجه، الحدود، باب رجم اليهودي واليهودية، ح:٢٥٥٧ من حديث شريك به وللحديث شواهد منها الحديث السابق * وفي الباب عن ابن عمر [تقدم:١٤٣٦] والبراء [مسلم، ح:١٧٠٠] وجابر [مسلم، ح:١٧٠١] وابن أبي أوفى [البخاري، ح:٦٨١٣ ومسلم، ح:١٧٠٢ وأحمد:٤/ ٣٥٥] وعبدالله بن الحارث بن جزء [البيهقي:٨/ ٢١٦] وابن عباس [أحمد:١/ ٢٦١].

Comments:

It is clear from this narration that if a law-suit is lodged in an Islamic Court by non-Muslims, the case will be decided according to Islamic Law. They were asked to bring the *Taurah* (Torah) just to prove to them that Islamic punishment is the same which has been prescribed in the *Taurah*. (See for details *Sahīh Muslim* v.2. p69. and *Tuhfat Al-Ahwadhī* v.2. p.325 and *Takmilah*. v.2. p.471-474.)

Chapter 11. What Has Been Related About Banishment

(المعجم ١١) - بَابُ مَا جَاءَ فِي النَّفْيِ (التحفة ١١)

1438. Ibn 'Umar narrated that the Prophet ﷺ lashed and banished, Abū Bakr lashed and banished, and 'Umar lashed and banished. (***Sahīh***)

[He said:] There are narrations on this topic from Abū Hurairah, Zaid bin Khālid, and 'Ubādah bin As-Sāmit.

١٤٣٨ - حَدَّثَنَا أَبُو كُرَيْبٍ ويَحْيَى بْنُ أَكْثَمَ قَالَا: حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ عَنْ عُبَيْدِ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ ضَرَبَ وَغَرَّبَ وأَنَّ أَبَا بَكْرٍ ضَرَبَ وغَرَّبَ وأَنَّ عُمَرَ ضَرَبَ وغَرَّبَ [قَالَ:] وَفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وزَيْدِ بْنِ خَالِدٍ وعُبَادَةَ بْنِ

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Umar is a *Gharīb Hadīth*. It was reported by more than one narrator from 'Abdullāh bin Idrīs in *Marfū'* form. Some of them reported this *Hadīth* from 'Ubaidullāh, from Nāfi', from Ibn 'Umar: that Abū Bakr lashed and banished, and that 'Umar lashed and banished.

This was narrated to us by Abū Al-Ashajj (who said): " 'Abdullāh bin Idrīs narrated to us" and this is how this *Hadīth* was reported in other narrations from Ibn Idrīs, from 'Ubaidullāh bin 'Umar and it is similar to this. Similarly; Muhammad bin Ishāq reported from Nāfi', from Ibn 'Umar, that Abū Bakr lashed and banished, and 'Umar lashed and banished. And he did not mention about the Prophet ﷺ in it. It is correct that the Prophet ﷺ banished. It was reported by Abū Hurairah, Zaid bin Khālid, 'Ubādah bin As-Sāmit and others from the Prophet ﷺ.

This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ. Among them were Abū Bakr, 'Umar, 'Alī, Ubayy bin Ka'b, 'Abdullāh bin Mas'ūd, Abū Dharr and others. Similar has been reported from more than one of the *Fuqahā'* among the *Tābi'īn*. This is the view of Sufyān Ath-Thawrī, Mālik bin Anas, 'Abdullāh bin Al-Mubārak, Ash-Shāfi'ī, Ahmad, and Ishāq.

الصَّامِتِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ غَرِيبٌ. رَوَاهُ غَيْرُ وَاحِدٍ، عَنْ عَبْدِ اللهِ ابْنِ إِدْرِيسَ فَرَفَعُوهُ. ورَوَى بَعْضُهُمْ عَنْ عَبْدِ اللهِ بْنِ إِدْرِيسَ هٰذَا الحَدِيثَ عَنْ عُبَيْدِ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ أَنَّ أَبَا بَكْرٍ ضَرَبَ وغَرَّبَ وأَنَّ عُمَرَ ضَرَبَ وَغَرَّبَ.

حَدَّثَنَا بِذَلِكَ أَبُو سَعِيدٍ الأَشَجُّ: حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ: وَهٰكَذَا رُوِيَ هٰذَا الحَدِيثُ مِنْ غَيْرِ رِوَايَةِ ابْنِ إِدْرِيسَ، عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ نَحْوُ هٰذَا. وهٰكَذَا رَوَاهُ مُحَمَّدُ ابْنُ إِسْحَاقَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ أَنَّ أَبَا بَكْرٍ ضَرَبَ وغَرَّبَ وأَنَّ عُمَرَ ضَرَبَ وغَرَّبَ. ولَمْ يُذْكَرْ فِيهِ عَنِ النَّبِيِّ ﷺ. وقَدْ صَحَّ عَنْ رَسُولِ اللهِ ﷺ النَّفْيُ. رَوَاهُ أَبُو هُرَيْرَةَ وزَيْدُ ابْنُ خَالِدٍ وعُبَادَةُ بْنُ الصَّامِتِ وغَيْرُهُمْ عَنِ النَّبِيِّ ﷺ والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ مِنْهُمْ أَبُو بَكْرٍ وعُمَرُ وعَلِيٌّ وأُبَيُّ بْنُ كَعْبٍ وعَبْدُ اللهِ بْنُ مَسْعُودٍ وأَبُو ذَرٍّ وغَيْرُهُمْ. وكَذَلِكَ رُوِيَ عَنْ غَيْرِ وَاحِدٍ مِنْ فُقَهَاءِ التَّابِعِينَ. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ ومَالِكِ بْنِ أَنَسٍ وعَبْدِ اللهِ بْنِ المُبَارَكِ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ.

تخريج: [إسناده صحيح] وأخرجه النسائي في الكبرى، ح: ٧٣٤٢ والبيهقي: ٨/ ٢٢٣ من

حديث أبي كريب به * وفي الباب عن أبي هريرة [تقدم:١٤٣٣] وزيد بن خالد [تقدم:١٤٣٣] وعبادة بن الصامت [تقدم:١٤٣٤] * الحديث الموقوف: أخرجه البيهقي من حديث أبي سعيد الأشج به وسنده صحيح.

Comments:

This issue has been discussed in the context of narration no. 1434. (For more details see *Tuḥfat Al-Aḥwadhī* v.2. p. 326-327.)

Chapter 12. What has Been Related About: The Legal Punishments Are Atonement For Those Who Receive Them

(المعجم ١٢) - **بَابُ مَا جَاءَ أَنَّ الْحُدُودَ كَفَّارَةٌ لِأَهْلِهَا** (التحفة ١٢)

1439. 'Ubādah bin Aṣ-Ṣāmiṭ narrated: "We were with the Prophet ﷺ [in a gathering] and he said: 'Pledge to me that you will not associate [anything as] partners with Allāh, and that you will not steal nor commit adultery.' He recited to them the *Āyah*.[1] (And he said:) 'Whoever among you dies, then his reward is with Allāh, and whoever among you does some of this and then he is punished, it is an atonement for him. And whoever does some of this and Allāh covers it for him, then it is up to Allāh; if He wills, He will punish him, and if He wills, He will forgive him.'" (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Alī, Jarīr bin 'Abdullāh, and Khuzaimah bin Thābit.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Ubādah bin Aṣ-Ṣāmiṭ is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Ash-Shāfi'ī said: "Regarding this topic – that the legal punishments serve as atonement for those who receive

١٤٣٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ أَبِي إِدْرِيسَ الخَوْلَانِيِّ، عَنْ عُبَادَةَ بْنِ الصَّامِتِ. قَالَ: كُنَّا عِنْدَ النَّبِيِّ ﷺ [فِي مَجْلِسٍ] فَقَالَ: «تُبَايِعُونِي عَلَى أَنْ لَا تُشْرِكُوا بِاللهِ [شَيْئًا] ولَا تَسْرِقُوا وَلَا تَزْنُوا» قَرَأَ عَلَيْهِمُ الْآيَةَ «فَمَنْ وَفَّى مِنْكُمْ فَأَجْرُهُ عَلَى اللهِ، ومَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا فَعُوقِبَ عَلَيْهِ فَهُوَ كَفَّارَةٌ لَهُ، ومَنْ أَصَابَ مِنْ ذَلِكَ شَيْئًا فَسَتَرَهُ اللهُ عَلَيْهِ فَهُوَ إِلَى اللهِ إِنْ شَاءَ عَذَّبَهُ وَإِنْ شَاءَ غَفَرَ لَهُ» [قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ وجَرِيرِ بْنِ عَبْدِ اللهِ وخُزَيْمَةَ ابْنِ ثَابِتٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عُبَادَةَ بْنِ الصَّامِتِ حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَالَ الشَّافِعِيُّ: لَمْ أَسْمَعْ - فِي هٰذَا الْبَابِ أَنَّ الحَدَّ يَكُونُ كَفَّارَةً لِأَهْلِهِ - شَيْئًا أَحْسَنَ مِنْ هٰذَا الحَدِيثِ. قَالَ الشَّافِعِيُّ: وأُحِبُّ لِمَنْ أَصَابَ ذَنْبًا فَسَتَرَهُ اللهُ عَلَيْهِ أَنْ يَسْتُرَ عَلَى

[1] This refers to *Sūrat Al-Mumtaḥinah* (60:12). See *Tuḥfat Al-Aḥwadhī*.

them – I have not heared anything more appropriate than this *Hadīth*." Ash-Shāfi'ī said: It is recommended for anyone who suffers to commit a sin which Allāh conceals for him, that he too conceal it, and repent for whatever is between him and his Lord." Similarly it has been reported from Abū Bakr and 'Umar, that they ordered a man to cover (the sin he committed).

نَفْسِهِ وَيَتُوبَ فِيمَا بَيْنَهُ وبَيْنَ رَبِّهِ وكَذَلِكَ رُوِيَ عَنْ أَبِي بَكْرٍ وعُمَرَ أَنَّهُمَا أَمَرَا رَجُلًا أَنْ يَسْتُرَ عَلَى نَفْسِهِ.

تخريج: متفق عليه، وأخرجه البخاري، التفسير، باب: "إذا جاءك المؤمنات يبايعنك"، ح:٤٨٩٤ مسلم، ح:١٧٠٩ من حديث سفيان بن عيينة به * وفي الباب عن علي [يأتي:٢٦٢٦] وجرير بن عبدالله [لم أجده] وخزيمة بن ثابت [أحمد:٥/ ٢١٤، ٢١٥].

Comments:

The *Hadd* punishment serves as an atonement, but it will not serve as an atonement of the offence if an offender continues the vice and does not give it up. Yet, Allāh is Most Gracious and Merciful, and one can count on His Mercy and Guidance to avoid the vices and sins.

Chapter 13. What Has Been Related About Establishing Legal Punishments Upon The Slave Girl

(المعجم ١٣) - بَابُ مَا جَاءَ فِي إِقَامَةِ الْحَدِّ عَلَى الْإِمَاءِ (التحفة ١٣)

1440. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "If one of your slave girls commits illegal sexual intercourse, then whip her three times according to the Book of Allāh, and if she does it again then sell her, even if it is for a rope made of hair." (***Hasan***)

[He said:] There are narrations on this topic from 'Alī, Abū Hurairah, Zaid bin Khālid, and Shibl – from 'Abdullāh bin Mālik Al-Awsī.

The *Hadīth* of Abū Hurairah is a *Hasan Sahīh Hadīth*. It has been reported from him through other

١٤٤٠ - حَدَّثَنَا أَبُو سَعِيدٍ الْأَشَجُّ: حَدَّثَنَا أَبُو خَالِدٍ الْأَحْمَرُ: حَدَّثَنَا الْأَعْمَشُ عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا زَنَتْ أَمَةُ أَحَدِكُمْ فَلْيَجْلِدْهَا ثَلَاثًا بِكِتَابِ اللهِ، فَإِنْ عَادَتْ فَلْيَبِعْهَا وَلَوْ بِحَبْلٍ مِنْ شَعَرٍ» [قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ وأَبِي هُرَيْرَةَ وزَيْدِ بْنِ خَالِدٍ وَشِبْلٍ، عَنْ عَبْدِ اللهِ بْنِ مَالِكٍ الْأَوْسِيِّ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

routes, and this is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They held the view that a man could implement the legal punishments upon his slaves without resorting to the *Sulṭān*. This is the view of Aḥmad and Isḥāq. Some of them said that he has to bring them to the *Sulṭān*, and he may not implement the legal punishments himself. But the first view is more correct.

وقَدْ رُوِيَ عَنْهُ مِنْ غَيْرِ وَجْهٍ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ رَأَوْا أَنْ يُقِيمَ الرَّجُلُ الحَدَّ عَلَى مَمْلُوكِهِ دُونَ السُّلْطَانِ. وهُوَ قَوْلُ أَحْمَدَ، وإِسْحَاقَ. وقَالَ بَعْضُهُمْ: يُرفَعُ إِلَى السُّلْطَانِ ولَا يُقِيمُ الحَدَّ هُوَ بِنَفْسِهِ والقَوْلُ الْأَوَّلُ أَصَحُّ.

تخريج: [حسن] وأخرجه النسائي في الكبرى، ح:٧٢٤٣ من حديث الأشج به وللحديث شواهد عند البخاري ومسلم وأبي داود، ح:٤٤٧١ وغيرهم * وفي الباب عن علي [يأتي:١٤٤١] وأبي هريرة [تقدم:١٤٣٣] وزيد بن خالد [تقدم:١٤٣٣] وشبل [تقدم:١٤٣٣] وعبدالله بن مالك الأوسي [أحمد:٤/٣٤٣].

Comments:

According to the opinion of most of the people of knowledge, the owner of a slave is allowed to impose the *Hadd* punishment on his slave. In the view of Imām Mālik and some of the followers of Imām Shāfi'ī the owner of the slave is not allowed to impose the *Hadd* punishment of theft. According to Imām Ath-Thawrī and Al-Awzā'ī, only the *Hadd* punishment of fornication can be imposed on the slave by his owner. The *Aḥnāf's* point of view is that only the court has the right to impose the punishment of *Hadd*. Some others say that if the crime is clearly established and proven, and the owner himself is a man of honor and prestige, he can impose the *Hadd* punishment, otherwise, the matter must be referred to the court of justice.

1441. Abū 'Abdur-Raḥmān As-Sulami narrated: "Alī gave a *Khuṭbah* and said: 'O people, establish the penalites upon your slaves, those married from them and those unmarried. A slave girl of the Prophet ﷺ comitted illegal sexual intercourse so he ordered me to whip her. I went to her and she was just experiencing her post-natal bleeding, so I feared that if I were to whip her I would kill her' –

١٤٤١ - حَدَّثَنَا الحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا أَبُو دَاوُدَ الطَّيَالِسِيُّ: حَدَّثَنَا زَائِدَةُ [ابْنُ قُدَامَةَ] عَنِ السُّدِّيِّ، عَنْ سَعْدِ بْنِ عُبَيْدَةَ، عَنْ أَبِي عَبْدِ الرَّحْمٰنِ السُّلَمِيِّ قَالَ: خَطَبَ عَلِيٌّ فَقَالَ: يَا أَيُّهَا النَّاسُ، أَقِيمُوا الحُدُودَ عَلَى أَرِقَّائِكُمْ مَنْ أَحْصَنَ مِنْهُمْ وَمَنْ لَمْ يُحْصِنْ، وإِنَّ أَمَةً لِرَسُولِ اللهِ ﷺ زَنَتْ فَأَمَرَنِي أَنْ أَجْلِدَهَا، فَأَتَيْتُهَا فَإِذَا هِيَ حَدِيثَةُ عَهْدٍ بِنِفَاسٍ،

فَخَشِيتُ إِنْ أَنَا جَلَدْتُهَا أَنْ أَقْتُلَهَا - أَوْ قَالَ: تَمُوتَ - فَأَتَيْتُ رَسُولَ اللهِ ﷺ فَذَكَرْتُ ذَلِكَ لَهُ. فَقَالَ: «أَحْسَنْتَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ. [والسُّدِّيُّ اسْمُهُ إِسْمَاعِيلُ بْنُ عَبْدِالرَّحْمٰنِ وَهُوَ مِنَ التَّابِعِينَ، قَدْ سَمِعَ مِنْ أَنَسِ بْنِ مالِكٍ ورَأَى حُسَيْنَ بْنَ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللهُ عَنْهُ].

or he said: 'she would die' – 'so I went to the Messenger of Allāh ﷺ and I told that to him. So he said: 'You did well.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Ṣaḥīḥ*. [As-Suddī's (a narrator in this chain) name is Ismā'īl bin 'Abdur-Raḥmān, and he was one of the *Tābi'īn*. He heard from Anas bin Mālik, and saw Ḥusain bin 'Alī bin Abī Ṭālib, may Allāh be pleased with him].

تخريج: وأخرجه مسلم، الحدود، باب تأخير الحد عن النفساء، ح:١٧٠٥ من حديث الطيالسي به وهو في مسنده، ح:١١٢.

Comments:

This narration indicates that a slave woman who gives birth to a child, *Hadd* punishment should not be applied on her immediately. She should be given enough time to suckle the baby. The same orders are for the punishment of a sick person. (*Ṣaḥīḥ Muslim* v. 2. P.71.)

(المعجم ١٤) - بَابُ مَا جَاءَ فِي حَدِّ السَّكْرَانِ (التحفة ١٤)

Chapter 14. What Has Been Related About Legal Punishment For The Drunkard

١٤٤٢ - حَدَّثَنَا سُفْيَانُ بْنُ وَكِيعٍ: حَدَّثَنَا أَبِي عَنْ مِسْعَرٍ، عَنْ زَيْدٍ العَمِّيِّ، عَنْ أَبِي الصِّدِّيقِ، عَنْ أَبِي سَعِيدٍ الخُدْرِيِّ: أَنَّ رَسُولَ اللهِ ﷺ ضَرَبَ الحَدَّ بِنَعْلَيْنِ أَرْبَعِينَ - قَالَ مِسْعَرٌ: أَظُنُّهُ فِي الخَمْرِ -. [قَالَ:] وَفِي الْبَابِ عَنْ عَلِيٍّ، وعَبْدِ الرَّحْمٰنِ بْنِ أَزْهَرَ، وأَبِي هُرَيْرَةَ، والسَّائِبِ، [و]ابْنِ عَبَّاسٍ، [وعُقْبَةَ] بْنِ الحَارِثِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي سَعِيدٍ حَدِيثٌ حَسَنٌ، وأَبُو الصِّدِّيقِ النَّاجِيُّ اسْمُهُ بَكْرُ بْنُ عَمْرٍو [وَيُقَالُ: بَكْرُ بْنُ قَيْسٍ].

1442. Abū Sa'eed Al-Khudrī narrated that the Messenger of Allāh ﷺ implemented the penalty by beating forty times, with two shoes – Mis'ar (one of the narrators) said: "I think it was for wine." (*Ḍa'īf*)

[He said:] There are narrations on this topic from 'Alī, 'Abdur-Raḥmān bin Azhar, Abū Hurairah, As-Sā'ib, Ibn 'Abbās, and 'Uqbah bin Al-Ḥārith.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Sa'eed is a *Ḥasan Ḥadīth*. Abū Aṣ-Ṣiddīq An-Nājī's name is Bakr bin 'Amr [and they also call him Bakr bin Qais].

تخريج: [إسناده ضعيف] وأخرجه النسائي في الكبرى، ح:٥٢٩٣ من حديث مسعر به *

زيد العمي ضعيف (تقريب) * وفي الباب عن علي [البخاري، ح:٦٧٧٨ ومسلم، ح:١٧٠٧] وعبدالرحمن بن أزهر [أبو داود، ح:٤٤٨٨] وأبي هريرة [البخاري، ح:٦٧٧٧، ٦٧٨١] والسائب [البخاري، ح:٦٧٧٩] وابن عباس [أبو داود، ح:٤٤٧٦] وعقبة بن الحارث [البخاري، ح:٢٣١٦، ٦٧٧٥].

1443. Anas narrated that a man who had drank wine was brought to the Prophet ﷺ, so he beat him about forty times with two stalks of a palm tree. So Abū Bakr did similarly, and by the time 'Umar became *Khalīfah* he sought council from the people. And 'Abdur-Raḥmān bin 'Awf said: 'I see that the lightest penalty is eighty lashes,' so 'Umar ordered that. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. The punishment for intoxication is eighty (lashes).

١٤٤٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: . حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ قَالَ: سَمِعْتُ قَتَادَةَ يُحَدِّثُ عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ أُتِيَ بِرَجُلٍ قَدْ شَرِبَ الخَمْرَ، فَضَرَبَهُ بِجَرِيدَتَيْنِ نَحْوَ الأَرْبَعِينَ. وفَعَلَهُ أَبُو بَكْرٍ، فَلَمَّا كَانَ عُمَرُ اسْتَشَارَ النَّاسَ فَقَالَ عَبْدُ الرَّحْمٰنِ بْنُ عَوْفٍ: كَأَخَفِّ الحُدُودِ: ثَمَانِينَ، فَأَمَرَ بِهِ عُمَرُ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ أَنَّ حَدَّ السَّكْرَانِ ثَمَانُونَ.

تخريج: متفق عليه، وأخرجه مسلم، الحدود، باب حد الخمر، ح:١٧٠٦ عن محمد بن بشار والبخاري، ح:٦٧٧٣ من حديث شعبة به مختصرًا ومطولاً.

Comments:

A date palm stick without leaves is called *'Jarīdah'*. Hitting by two sticks may mean hitting with by each stick for forty times, making a total eighty strikes, and it may also mean hitting with two sticks together forty times, that is eighty strikes with two sticks together. (*Takmilah* v. 2. p. 488 and *Al-Mughnī* v. 3. p. 150.)

Chapter 15. What Has Been Related About: Whoever Drinks Wine Then Lash Him, And Whoever Does It A Fourth Time, Then Kill Him

(المعجم ١٥) - بَابُ مَا جَاءَ مَنْ شَرِبَ الْخَمْرَ فَاجْلِدُوهُ وَمَنْ عَادَ فِي الرَّابِعَةِ فَاقْتُلُوهُ (التحفة ١٥)

1444. Mu'āwiyah narrated that the Messenger of Allāh ﷺ said: "Whoever drinks wine, then lash him. If he returns to it, then on the fourth time kill him." (***Ḥasan***)

١٤٤٤ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ عَاصِمٍ [بْنِ بَهْدَلَةَ]، عَنْ أَبِي صَالِحٍ، عَنْ مُعَاوِيَةَ قَالَ: قَالَ رَسُولُ اللهِ

[He said:] There are narrations on this topic from Abū Hurairah, Ash-Sharīd, Shuraḥbīl bin Aws, Jarīr, Abū Ar-Ramad Al-Balawī, and 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] The *Ḥadīth* of Mu'āwiyah was also reported like this by Ath-Thawrī; from 'Āṣim, from Abū Ṣāliḥ, from Mu'āwiyah, from the Prophet ﷺ. Ibn [Juraij] and Ma'mar reported it from Suhail bin Abī Ṣāliḥ, from his father, from Abū Hurairah, from the Prophet ﷺ. [He said:] I heard Muḥammad saying: "The *Ḥadīth* of Abū Ṣāliḥ from Mu'āwiyah from the Prophet ﷺ about this topic is more correct than the *Ḥadīth* of Abū Ṣāliḥ from Abū Hurairah from the Prophet ﷺ. This was only the earlier order, then it was abrogated later." This is what was reported from Muḥammad bin Isḥāq, from Muḥammad bin Al-Munkadir, from Jābir bin 'Abdullāh, from the Prophet ﷺ who said: "Whoever drinks wine, then lash him, if he returns to it, then on the fourth time kill him." He said: "Then a man who had been drinking was brought to the Prophet ﷺ a forth time, so he beat him, he did not kill him." Similar was reported by Az-Zuhrī from Qabīṣah bin Dhu'aib from the Prophet ﷺ, he (Qabīṣah) said: "so the order to kill was lifted, and that was a granted favor (from the Law-Giver)."

This [*Ḥadīth*] is acted upon according to the people of knowledge in general, we do not know of any disagreement between

ﷺ: «مَنْ شَرِبَ الخَمْرَ فاجْلِدُوهُ فَإِنْ عَادَ فِي الرَّابِعَةِ فَاقْتُلُوهُ» [قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، والشَّرِيدِ، وشُرَحْبِيلَ بْنِ أَوْسٍ، وجَرِيرٍ، وأَبِي الرَّمَدِ البَلَوِيِّ، وعَبْدِ اللهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] حَدِيثُ مُعَاوِيَةَ، هَكَذَا رَوَى الثَّوْرِيُّ أَيْضًا عَنْ عَاصِمٍ، عَنْ أَبِي صَالِحٍ، عَنْ مُعَاوِيَةَ عَنِ النَّبِيِّ ﷺ. ورَوَى ابْنُ [جُرَيْجٍ] ومَعْمَرٌ عَنْ سُهَيْلِ بْنِ أَبِي صالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ. [قَالَ:] سَمِعْتُ مُحَمَّدًا يَقُولُ: حَدِيثُ أَبِي صَالِحٍ عَنْ مُعَاوِيَةَ عَنِ النَّبِيِّ ﷺ فِي هٰذَا أَصَحُّ مِنْ حَدِيثِ أَبِي صَالِحٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ. وإِنَّمَا كَانَ هٰذَا في أَوَّلِ الأَمْرِ ثُمَّ نُسِخَ بَعْدُ. هَكَذَا رَوَى مُحَمَّدُ بْنُ إِسْحَاقَ عَنْ مُحَمَّدِ بْنِ المُنْكَدِرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ مَنْ شَرِبَ الخَمْرَ فَاجْلِدُوهُ، فَإِنْ عَادَ في الرَّابِعَةِ فاقْتُلُوهُ». قَالَ: ثُمَّ أُتِيَ النَّبِيُّ ﷺ بَعْدَ ذٰلِكَ بِرَجُلٍ قَدْ شَرِبَ فِي الرَّابِعَةِ فَضَرَبَهُ وَلَمْ يَقْتُلْهُ. وكَذٰلِكَ رَوَى الزُّهْرِيُّ عَنْ قَبِيصَةَ بْنِ ذُؤَيْبٍ عَنِ النَّبِيِّ ﷺ نَحْوَ هٰذَا قَالَ: فَرُفِعَ القَتْلُ وكَانَتْ رُخْصَةً.

وَالْعَمَلُ عَلَى هٰذَا [الْحَدِيثِ] عِنْدَ عَامَّةِ أَهْلِ الْعِلْمِ، لَا نَعْلَمُ بَيْنَهُم اخْتِلَافًا فِي ذٰلِكَ فِي القَدِيمِ وَالحَدِيثِ. وَمِمَّا يُقَوِّي هٰذَا مَا رُوِي عَنِ النَّبِيِّ ﷺ مِنْ أَوْجُهٍ كَثِيرَةٍ، أَنَّهُ

them about this, neither the earlier or the latter among them. What strengthens this, is what is reported from the Prophet ﷺ through many routes, that he said: "The blood of a Muslim man who testifies to *Lā ilāha illallāh* and, that I am the Messenger of Allāh, is not lawful except for one of three: A life for a life, the (married) adulterer, and leaving his religion."

قَالَ: «لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلٰه إِلَّا اللهُ وَأَنِّي رَسُولُ اللهِ إِلَّا بِإِحْدَىٰ ثَلَاثٍ: النَّفْسُ بِالنَّفْسِ، وَالثَّيِّبُ الزَّانِي، وَالتَّارِكُ لِدِينِهِ».

تخريج: [**حسن**] وأخرجه أبو داود، الحدود، باب: إذا تتابع في شرب الخمر، ح:٤٤٨٢ وابن ماجه، ح:٢٥٧٣ من حديث عاصم به وصححه ابن حبان، ح:١٥١٩ والذهبي في تلخيص المستدرك:٤/ ٣٧٢ وللحديث طرق أخرى * وفي الباب عن أبي هريرة [أبو داود، ح:٤٤٨٤] والشريد [أحمد:٤/ ٣٨٨ والدارمي: ٢٣١٨] وشرحبيل بن أوس [أحمد:٤/ ٢٣٤ وعبد بن حميد، ح:٤٠٨] وجرير [البخاري في التاريخ الكبير: ٣/ ١٤٢ والحاكم:٤/ ٣٧١ والطبراني في الكبير:٢/ ٣٣٥، ح:٢٣٩٧،٢٣٩٨] وأبي الرمد البلوي [الطبراني في الكبير:٢٢/ ٣٥٦، ح:٨٩٣] وعبدالله ابن عمرو [أحمد: ٢/ ١٦٦، ١٩١] وعبدالله بن عمر [أبو داود، ح:٤٤٨٣] * حديث معمر: أحمد:٢/ ٨٠ والنسائي في الكبرى، ح:٥٢٩٦ وسنده صحيح * حديث محمد بن إسحاق: النسائي في الكبرى، ح:٥٣٠٢، ٥٣٠٣ والبيهقي:٨/ ٣١٤ وهو حديث صحيح * وحديث الزهري: أبو داود، ح:٤٤٨٥، قبيصة سمعه من صحابي لا نعرفه، انظر المحلى:١١/ ٣٦٨.

Comments:

The majority of the scholars hold the view that if a person who had been punished for drinking alcohol is found guilty of committing the same offence for the four time, he should not be given capital punishment, as opposed to Ibn Ḥazm who believed otherwise.

Chapter 16. What Has Been Related About: For How Much (Wealth) Is The Thief's Hand Cut Off?

(المعجم ١٦) - بَابُ مَا جَاءَ فِي كَمْ يُقْطَعُ السَّارِقُ (التحفة ١٦)

1445. 'Āishah narrated that the Prophet ﷺ used to cut the hand for a fourth of a Dinār and beyond that. (***Ṣaḥīḥ***)

١٤٤٥ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، أَخْبَرَتْهُ عَمْرَةُ عَنْ عائِشَةَ: أَنَّ النَّبِيَّ ﷺ كانَ يَقْطَعُ فِي رُبْعِ دِينَارٍ فَصَاعِدًا.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Āishah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This *Ḥadīth* has been reported through other routes from 'Amrah, from 'Āishah in *Marfū'* form. Some

[**قَالَ أَبُو عِيسَى**:] حَدِيثُ عائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ

of them reported it from 'Amrah, from 'Āishah in *Mawqūf* form.

وَجْهٍ عَنْ عَمْرَةَ، عَنْ عائِشَةَ مَرْفُوعًا، وَرَوَاهُ بَعْضُهُمْ عَنْ عَمْرَة، عَنْ عائِشَةَ مَوْقُوفًا.

تخريج: متفق عليه، وأخرجه مسلم، الحدود، باب حد السرقة ونصابها، ح:١٦٨٤ من حديث سفيان بن عيينة والبخاري، ح:٦٧٨٩ من حديث الزهري به.

1446. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ cut the hand for a shield worth three Dirham." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Sa'd, 'Abdullāh bin 'Amr, Ibn 'Abbās, Abū Hurairah, and Ayman.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. Among them were Abū Bakr Aṣ-Ṣiddīq who cut for five Dirham. It has been reported that 'Uthmān and 'Alī cut for a fourth of a Dīnār. It has been reported that Abū Hurairah and Abū Sa'eed said that the hand is cut off for five Dirham. This is acted upon according to some of the *Fuqahā'* among the *Tābi'īn*, it is the view of Mālik bin Anas, Ash-Shāfi'ī, Aḥmad, and Isḥāq. They held the view that the hand was cut off for a fourth of a Dīnār and whatever was beyond that.

It has been reported that Ibn Mas'ūd said that it is not cut for less than a Dīnār or ten Dirham. And this is a *Mursal Ḥadīth* which was reported by Al-Qāsim bin 'Abdur-Raḥmān from Ibn Mas'ūd, and Al-

١٤٤٦ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَطَعَ رَسُولُ اللهِ ﷺ فِي مِجَنٍّ قِيمَتُهُ ثَلَاثَةُ دَرَاهِمَ.

[قَالَ:] وَفِي الْبَابِ عَنْ سَعْدٍ، وعَبْدِ اللهِ ابْنِ عَمْرٍو، وابْنِ عَبَّاسٍ، وأَبِي هُرَيْرَةَ، وأَيْمَنَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ، مِنْهُمْ: أَبُو بَكْرٍ الصِّدِّيقُ قَطَعَ فِي خَمْسَةِ دَرَاهِمَ. ورُوِيَ عَنْ عُثْمَانَ وعَلِيٍّ: أَنَّهُمَا قَطَعَا فِي رُبْعِ دِينَارٍ. ورُوِيَ عَنْ أَبِي هُرَيْرَةَ وأَبِي سَعِيدٍ أَنَّهُمَا قَالَا: تُقْطَعُ الْيَدُ فِي خَمْسَةِ دَرَاهِمَ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ فُقَهَاءِ التَّابِعِينَ. وَهُوَ قَوْلُ مالِكِ بْنِ أَنَسٍ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ: رَأَوُا الْقَطْعَ فِي رُبْعِ دِينَارٍ فَصَاعِدًا.

وقَدْ رُوِيَ عَنِ ابْنِ مَسْعُودٍ أَنَّهُ قَالَ: لَا قَطْعَ إِلَّا فِي دِينَارٍ أَوْ عَشْرَةِ دَرَاهِمَ. وَهُوَ حَدِيثٌ مُرْسَلٌ رَوَاهُ الْقَاسِمُ بْنُ عَبْدِ الرَّحْمٰنِ عَنِ ابْنِ مَسْعُودٍ. والْقَاسِمُ لَمْ يَسْمَعْ مِنِ ابْنِ مَسْعُودٍ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وأَهْلِ

Qāsim did not hear from Ibn Mas'ūd. This is acted upon according to some of the people of knowledge, it is the view of Sufyān Ath-Thawrī and the people of Al-Kūfah. They said that the hand is not cut off for less than ten Dirham.

[It has been reported that 'Alī said that there is no cutting of hand for less than ten Dirham. But its chain of narration is not connected.]

الْكُوفَةِ، قَالُوا: لَا قَطْعَ فِي أَقَلَّ مِنْ عَشْرَةِ دَرَاهِمَ [وَرُوِيَ عَنْ عَلِيٍّ أَنَّهُ قَالَ: لَا قَطْعَ فِي أَقَلَّ مِنْ عَشْرَةِ دَرَاهِمَ وَلَيْسَ إِسْنَادُهُ بِمُتَّصِلٍ].

تخريج: متفق عليه، وأخرجه مسلم، الحدود، أيضًا، ح:١٦٨٦ عن قتيبة والبخاري، ح:٦٧٩٥ من حديث الليث بن سعد به * وفي الباب عن سعد [ابن ماجه، ح:٢٥٨٦] وعبدالله بن عمرو [أبو داود، ح:٤٣٩٠ وأصله عند الترمذي، ح:١٢٨٩] وابن عباس [أبو داود، ح:٤٣٨٧] وأبي هريرة [مسلم، ح:١٦٨٧] وأيمن [النسائي، ح:٤٩٤٦_٤٩٥٢].

Chapter 17. What Has Been Related About Hanging The Hand Of The Thief (Around His Neck)

(المعجم ١٧) - بَابُ مَا جَاءَ فِي تَعْلِيقِ يَدِ السَّارِقِ (التحفة ١٧)

1447. 'Abdur-Raḥmān bin Muḥairīz said: "I asked Faḍālah bin 'Ubaid about hanging the hand around the neck of the thief: 'Is this from the *Sunnah*?' He said: 'A man came to the Messenger of Allāh ﷺ with a thief so his hand was cut off, and then he ordered that it be hung around his neck.'" **(*Ḍa'īf*)**

١٤٤٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عُمَرُ بْنُ عَلِيٍّ الْمُقَدَّمِيُّ: حَدَّثَنَا الْحَجَّاجُ عَنْ مَكْحُولٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ مُحَيْرِيزٍ قَالَ: سَأَلْتُ فَضَالَةَ بْنَ عُبَيْدٍ عَنْ تَعْلِيقِ الْيَدِ فِي عُنُقِ السَّارِقِ، أَمِنَ السُّنَّةِ هُوَ؟ قَالَ: أُتِيَ رَسُولُ اللهِ ﷺ بِسَارِقٍ فَقُطِعَتْ يَدُهُ ثُمَّ أَمَرَ بِهَا فَعُلِّقَتْ فِي عُنُقِهِ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except as a narration of 'Umar bin 'Alī Al-Muqaddamī from Al-Ḥajjāj bin Arṭāh. 'Abdur-Raḥmān bin Muḥairīz is the brother of 'Abdullāh bin Muḥairīz and he is from Ash-Shām.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عُمَرَ بْنِ عَلِيٍّ الْمُقَدَّمِيِّ عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ، وَعَبْدُ الرَّحْمٰنِ بْنُ مُحَيْرِيزٍ هُوَ أَخُو عَبْدِ اللهِ بْنِ مُحَيْرِيزٍ شَامِيٌّ.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الحدود، باب: في السارق تعلق يده في عنقه، ح:٤٤١١ عن قتيبة به وقال النسائي:٨/٩٢، ح:٤٩٨٦ "الحجاج بن أرطاة ضعيف ولا يحتج

بحديثه" ومدلس وعنعن.

Comments:

This punishment is awarded to make a sign of warning for others. Imām Shāfi'ī and Aḥmad support this view, and the *Aḥnāf* say that the court has the right and choice of carrying it out. (*Tuḥfat Al-Aḥwadhī* v. 2. p. 332.)

Chapter 18. What Has Been Related About The Traitor, The Embezzler And The Plunderer

(المعجم ١٨) - بَابُ مَا جَاءَ فِي الْخَائِنِ وَالْمُخْتَلِسِ وَالْمُنْتَهِبِ (التحفة ١٨)

1448. Jābir narrated that the Prophet ﷺ said: "There is no cutting of the hand for the traitor or the embezzler, nor the plunderer." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge. Mughīrah bin Muslim narrated it – just as Ibn Juraij did – from Abū Az-Zubair, from Jābir, from the Prophet ﷺ, and it is similar. Mughīrah bin Muslim is from Al-Baṣrah, and he is the brother of 'Abdul-'Azīz Al-Qasmalī. This is what 'Alī bin Al-Madīnī said.

١٤٤٨ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنِ ابْنِ جُرَيْجٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ عَنِ النَّبِيِّ ﷺ قَالَ: «لَيْسَ عَلَى خائِنٍ ولَا مُنْتَهِبٍ ولَا مُخْتَلِسٍ قَطْعٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. وَقَدْ رَوَى مُغِيرَةُ بْنُ مُسْلِمٍ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ عَنِ النَّبِيِّ ﷺ نَحْوَ حَدِيثِ ابْنِ جُرَيْجٍ ومُغِيرَةُ بْنُ مُسْلِمٍ هُوَ بَصْرِيٌّ أَخُو عَبْدِالْعَزِيزِ الْقَسْمَلِيِّ كَذَا قَالَ عَلِيُّ بْنُ الْمَدِينِيِّ.

تخريج: [**صحيح**] وأخرجه أبو داود، الحدود، باب القطع، في الخلسة والخيانة، ح:٤٣٩١ والنسائي، ح:٤٩٧٥، ٤٩٧٦ وابن ماجه، ح:٢٥٩١ من حديث ابن جريج به وصرح بالسماع عند الدارمي:٢/١٧٥ وغيره وصححه ابن حبان، ح:١٥٠٢_١٥٠٤ وتقدم طرفه في تخريج حديث:١١٢٣.

Comments:

According to Qāḍī 'Iyāḍ, cutting of hand is only the punishment for stealing; robbery, plunder or embezzlement is more than stealing. These offences are terrorist activities and cause of creating violence and disturbances in the society, so the state, on such actions, can award severe punishment in the light of Verse 34 of *Sūrat Al-Mā'idah*. The punishment may be execution or crucifixion.

Chapter 19. What Has Been Related About Not Cutting The Hand For (Date) Fruits Or Palm Marrow

1449. Rāfi' bin Khadīj narrated that he heard the Messenger of Allāh ﷺ say: "There is no cutting of the hand for fruits or palm marrow." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This is what some of them reported from Yaḥyā bin Sa'eed, from Muḥammad bin Yaḥyā bin Ḥabbān, from his paternal uncle Wāsi' bin Ḥabbān, from Rāfi' [bin Khadīj], from the Prophet ﷺ, and it is similar to the narration of Al-Laith bin Sa'd.

Mālik bin Anas and others reported this *Ḥadīth* from Yaḥya bin Sa'eed, from Muḥammad bin Yaḥya bin Ḥabbān, from Rāfi' bin Khadīj, from the Prophet ﷺ, and they did not mention: "from Wāsi' bin Ḥabbān" in it.

(المعجم ١٩) - بَابُ مَا جَاءَ: لَا قَطْعَ فِي ثَمَرٍ وَلَا كَثَرٍ (التحفة ١٩)

١٤٤٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنْ عَمِّهِ واسِعِ بْنِ حَبَّانَ، أَنَّ رافِعَ ابْنَ خَدِيجٍ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «لَا قَطْعَ فِي ثَمَرٍ وَلَا كَثَرٍ».

[**قَالَ أَبُو عِيسَى**:] هَكَذا رَوَى بَعْضُهُمْ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنْ عَمِّهِ وَاسِعِ بْنِ حَبَّانَ، عَنْ رافِعِ [ابْنِ خَدِيجٍ] عَنِ النَّبِيِّ ﷺ نَحْوَ رِوَايَةِ اللَّيْثِ ابْنِ سَعْدٍ.

ورَوَى مالِكُ بْنُ أَنَسٍ وغَيْرُ واحِدٍ هٰذَا الْحَدِيثَ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ مُحَمَّدِ بْنِ يَحْيَى بْنِ حَبَّانَ، عَنْ رافِعِ بْنِ خَدِيجٍ عَنِ النَّبِيِّ ﷺ ولَمْ يَذْكُرُوا فِيهِ: عَنْ واسِعِ بْنِ حَبَّانَ.

تخريج: [**إسناده صحيح**] وأخرجه النسائي:٨/٨٧، ٨٨، ح:٤٩٧٠ (قطع السارق، باب ما لا قطع فيه) عن قتيبة به وصححه ابن الجارود، ح:٨٢٦ وابن حبان، ح:١٥٠٥ وحديث مالك في الموطأ:٢/٨٣٩ (يحيى).

Comments:

Here the fruit means those fruits which are still on trees. According to Imām Abū Ḥanīfah's view, cutting the hand is not applicable for stealing edibles, but in the view of other *A'immah* if these edibles are not secured and saved in a house, or by an enclosure, then there is no punishment of cutting the hand. This punishment is applicable for stealing a thing from a protected place. (*Al-Mughnī* v. 12. p. 424. and *'Āridhatul Aḥwadhī* v. 6. p. 229 & 437.)

Chapter 20. What Has Been Related About The Hands Not Being Cut In Battles

(المعجم ٢٠) - بَابُ مَا جَاءَ أَنْ لَا يُقْطَعَ الْأَيْدِي فِي الْغَزْوِ (التحفة ٢٠)

1450. Busr bin Arṭāh narrated that the Prophet ﷺ said: "The hands are not cut in battles." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*. Others besides Ibn Lahī'ah reported similar to this with this chain, and he also said: "Busr bin Abī Arṭāt."

This is acted upon according to some of the people of knowledge, among them Al-Awzā'ī. They did not see that the legal punishments should be carried out in battles in the presence of the enemy, fearing that the one the punishment was implemented upon may join the enemy. So when the *Imām* has left the land of war, and returned to the land of Islam, he applies the punishment on those deserving. This was said by Al-Awzā'ī.

١٤٥٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ لَهِيعَةَ عَنْ عَيَّاشِ بْنِ عَبَّاسٍ الْبَصْرِيِّ، عَنْ شُيَيْمِ بْنِ بَيْتَانَ، عَنْ جُنَادَةَ بْنِ أَبِي أُمَيَّةَ، عَنْ بُسْرِ بْنِ أَرْطَاةَ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «لَا يُقْطَعُ الْأَيْدِي فِي الْغَزْوِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ، وَقَدْ رَوَاهُ غَيْرُ ابْنِ لَهِيعَةَ بِهٰذَا الْإِسْنَادِ نَحْوَ هٰذَا، وقَالَ بُسْرُ بْنُ أَبِي أَرْطَاةَ أَيْضًا.

والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْهُمُ الْأَوْزَاعِيُّ لَا يَرَوْنَ أَنْ يُقَامَ الْحَدُّ فِي الْغَزْوِ بِحَضْرَةِ الْعَدُوِّ مَخَافَةَ أَنْ يَلْحَقَ، مَنْ يُقَامُ عَلَيْهِ الحَدُّ، بِالْعَدُوِّ، فَإِذَا خَرَجَ الْإِمَامُ مِنْ أَرْضِ الْحَرْبِ وَرَجَعَ إِلَى دَارِ الْإِسْلَامِ أَقَامَ الحَدَّ عَلَى مَنْ أَصَابَهُ. كَذٰلِكَ قَالَ الْأَوْزَاعِيُّ.

تخريج: [صحيح] وأخرجه أبو داود، الحدود، باب السارق يسرق في الغزو أيقطع؟، ح:٤٤٠٨ والنسائي، ح:٤٩٨٢ من حديث عباس بن عياش به وقال ابن معين: "هذا إسناد شامي".

Comments:

This narration 'Ubādah bin Aṣ-Sāmit describes that *Ḥudūd* punishments are to be carried out and implemented at all places, in travel and in dwellings. This narration reports that the *Ḥadd* punishment of cutting the hand is not implemented for stealing spoils because a pilferer thinks himself a shareholder of the spoils. In the case of cutting off his hand, there is the possibility that he may join the enemy's lines and commit the crime of apostasy.

Chapter 21. What Has Been Related About A Man Having Relations With The Slave Girl Of His Wife

(المعجم ٢١) - بَابُ مَا جَاءَ فِي الرَّجُلِ يَقَعُ عَلَى جَارِيَةِ امْرَأَتِهِ (التحفة ٢١)

1451. Habīb bin Sālim said: "A man was brought to An-Nu'mān bin Bashīr who had relations with the slave girl of his wife. He said: 'I give you a judgement about her case according to the judgement of the Messenger of Allāh ﷺ: If she made her lawful for him, then I will lash him one hundred times, and if she did not make her lawful, then I will stone him." (***Hasan***)

١٤٥١ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا هُشَيْمٌ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ وأَيُّوبَ بْنِ مِسْكِينٍ، عَنْ قَتَادَةَ، عَنْ حَبِيبِ بْنِ سَالِمٍ قَالَ: رُفِعَ إِلَى النُّعْمَانِ بْنِ بَشِيرٍ رَجُلٌ وَقَعَ عَلَى جَارِيَةِ امْرَأَتِهِ فَقَالَ: لأَقْضِيَنَّ فِيهَا بِقَضَاءِ رَسُولِ اللهِ ﷺ، لَئِنْ كانَتْ أَحَلَّتْهَا لَهُ لأَجْلِدَنَّهُ مِائَةً، وإِنْ لم تَكُنْ أَحَلَّتْهَا لَهُ رَجَمْتُهُ.

تخريج: [حسن] وأخرجه ابن ماجه، الحدود، باب من وقع على جارية امرأته، ح:٢٥٥١ والنسائي، ح:٣٣٦٤ من حديث قتادة به والسند معلول وله شاهد عند ابن ماجه، ح:٢٥٥٢ وغيره وسنده حسن.

1452. (Another chain) from An-Nu'mān bin Bashīr with similar. [And it has been reported that Qatādah said: "Habīb bin Sālim wrote to me about him." And, Abū Bash-shār (one of the narrators) did not hear this from Habīb bin Sālim as well, he only reported it from Khālid bin 'Urfuṭah.] (***Hasan***)

[He said:] There is something similar on this topic from Salamah bin Al-Muhabbaq.

[Abū 'Eīsā said:] The chain for the *Hadīth* of An-Nu'mān contains some confusion (*Idṭirāb*). He said: I heard Muhammad bin Ismā'īl saying: "Qatādah also did not hear this *Hadīth* from Habīb bin Sālim, he only reported it from Khālid bin 'Urfuṭah."

[Abū 'Eīsā said:] The people of

١٤٥٢ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا هُشَيْمٌ عَنْ أَبِي بِشْرٍ، عَنْ حَبِيبِ بْنِ سَالِمٍ، عَنِ النُّعْمَانِ بْنِ بَشِيرٍ نَحْوَهُ [ويُرْوَى عَنْ قَتَادَةَ أَنَّهُ قَالَ: كَتَبَ بِهِ إِلَيَّ حَبِيبُ بْنُ سَالِمٍ. وأَبُو بَشَّارٍ لَمْ يَسْمَعْ مِنْ حَبِيبِ بْنِ سَالِمٍ هٰذَا أَيْضًا، إِنَّمَا رَوَاهُ عَنْ خَالِدِ بْنِ عُرْفُطَةَ.

[قَالَ:] وَفِي الْبَابِ عَنْ سَلَمَةَ بْنِ الْمُحَبَّقِ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ النُّعْمَانِ فِي إِسْنَادِهِ اضْطِرَابٌ، قَالَ: سَمِعْتُ مُحَمَّدًا يَقُولُ: لَمْ يَسْمَعْ قَتَادَةُ مِنْ حَبِيبِ بْنِ سَالِمٍ هٰذَا الْحَدِيثَ أَيْضًا، إِنَّمَا رَوَاهُ عَنْ خَالِدِ بْنِ عُرْفُطَةَ.

[قَالَ أَبُو عِيسَى:] وَقَدِ اخْتَلَفَ أَهْلُ الْعِلْمِ

knowledge differ over the case of a man who has relations with his wife's slave girl. It has been reported from more than one of the Companions of the Prophet ﷺ – among them 'Alī and Ibn 'Umar – that he is to be stoned. Ibn Mas'ūd said: "The legal punishment is not required for him, but he may be punished." Aḥmad and Isḥāq followed what was reported from An-Nu'mān bin Bashīr from the Prophet ﷺ.

فِي الرَّجُلِ يَقَعُ عَلَى جَارِيَةِ امْرَأَتِهِ، فَرُوِيَ عَنْ غَيْرِ وَاحِدٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ مِنْهُمْ: عَلِيٌّ، وابْنُ عُمَرَ: أَنَّ عَلَيْهِ الرَّجْمَ. وَقَالَ ابْنُ مَسْعُودٍ: لَيْسَ عَلَيْهِ حَدٌّ ولَكِنْ يُعَزَّرُ. وَذَهَبَ أَحْمَدُ وإِسْحَاقُ إِلَى مَا رَوَى النُّعْمَانُ بْنُ بَشِيرٍ عَنِ النَّبِيِّ ﷺ.

تخريج: [حسن] انظر الحديث السابق * وفي الباب عن سلمة بن المحبق [أبو داود، ح:٤٤٦٠، ٤٤٦١ وأحمد:٣/٤٧٦].

Comments:

When a woman gave her slave woman to her husband, and he, due to his ignorance, thought her lawful for himself, while according to the *Sharī'ah* she is not lawful for him, the *Hadd* punishment will not be implemented on him, but as a warning and teaching lesson to others he will be whipped.

Chapter 22. What Has Been Related About A Woman Who Is Forced To Commit Adultery

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي الْمَرْأَةِ إِذَا اسْتُكْرِهَتْ عَلَى الزِّنَا (التحفة ٢٢)

1453. 'Abdul-Jabbār bin Wā'il bin Ḥujr narrated that his father said: "A woman was forced to commit illegal sexual relations during the time of the Messenger of Allāh ﷺ. The Messenger of Allāh ﷺ did not enforce the legal punishment upon her, but he enforced it upon the one who had done it to her." And the narrator did not mention him assigning a dowry for her. (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, and its chain is not connected. This *Ḥadīth* has been reported through more than one route. [He said:] I heard

١٤٥٣ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا مُعَمَّرُ بْنُ سُلَيْمَانَ الرَّقِّيُّ عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ، عَنْ عَبْدِ الْجَبَّارِ بْنِ وائِلِ بْنِ حُجْرٍ، عَنْ أَبِيهِ قَالَ: اسْتُكْرِهَتْ امْرَأَةٌ عَلَى عَهْدِ رَسُولِ اللهِ ﷺ، فَدَرَأَ عَنْهَا رَسُولُ اللهِ ﷺ الحَدَّ، وأَقَامَهُ عَلَى الَّذِي أَصَابَهَا، ولَمْ يَذْكُرْ أَنَّهُ جَعَلَ لَهَا مَهْرًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ، وَلَيْسَ إِسْنَادُهُ بِمُتَّصِلٍ، وَقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ هٰذَا الْوَجْهِ [قَالَ:] سَمِعْتُ مُحَمَّدًا يَقُولُ: عَبْدُ الْجَبَّارِ بْنُ وَائِلِ بْنِ حُجْرٍ

Muḥammad saying: "Abdul-Jabbār bin Wā'il bin Ḥujr did not hear from his father, nor did he see him." They say that he was born a month after his father died.

This *Ḥadīth* is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others, in that the legal punishment is not implemented upon the woman who is coerced into commiting adultery.

لَمْ يَسْمَعْ مِنْ أَبِيهِ وَلَا أَدْرَكَهُ، يُقَالُ: إِنَّهُ وُلِدَ بَعْدَ مَوْتِ أَبِيهِ بِأَشْهُرٍ. والْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: أَنْ لَيْسَ عَلَى الْمُسْتَكْرَهِ حَدٌّ.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الحدود، باب المستكره، ح:٢٥٩٨ من حديث الرقي به * حجاج بن أرطاة ضعيف مدلس وعبدالجبار بن وائل عن أبيه منقطع.

1454. 'Alqamah bin Wā'il Al-Kindī narrated from his father: "A woman went out during the time of the Prophet ﷺ to go to *Ṣalāt*, but she was caught by a man and he had relations with her, so she screamed and he left. Then a man came across her and she said: 'That man has done this and that to me,' then she came across a group of the Emigrants (*Muhājirīn*) and she said: 'That man did this and that to me.' They went to get the man she thought had relations with her, and they brought him to her. She said: 'Yes that's him.' So they brought him to the Messenger of Allāh ﷺ, and when he ordered that he be stoned, the man who had relations with her, said: 'O Messenger of Allāh, I am the one who had relations with her.' So he said to her: 'Go, for Allāh has forgiven you.' Then he said some nice words to the man (who was first brought). And he said to the man who had

١٤٥٤ - **حَدَّثَنَا** مُحَمَّدُ بْنُ يَحْيَى [النَّيْسَابُورِيُّ]: حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ عَنْ إِسْرَائِيلَ: حَدَّثَنَا سِمَاكُ بْنُ حَرْبٍ عَنْ عَلْقَمَةَ ابْنِ وائِلٍ الْكِنْدِيِّ، عَنْ أَبِيهِ: أَنَّ امْرَأَةً خَرَجَتْ عَلَى عَهْدِ النَّبِيِّ ﷺ تُرِيدُ الصَّلَاةَ، فَتَلَقَّاهَا رَجُلٌ فَتَجَلَّلَهَا فَقَضَى حاجَتَهُ مِنْها، فَصَاحَتْ، فَانْطَلَقَ، ومَرَّ عَلَيْهَا رَجُلٌ فَقَالَتْ: إِنَّ ذَاكَ الرَّجُلَ فَعَلَ بِي كَذَا وكَذَا، ومَرَّتْ بِعِصَابَةٍ مِنَ الْمُهاجِرِينَ فَقَالَتْ: إِنَّ ذَاكَ الرَّجُلَ فَعَلَ بِي كَذَا وكَذَا، فَانْطَلَقُوا فَأَخَذُوا الرَّجُلَ الَّذِي ظَنَّتْ أَنَّهُ وَقَعَ عَلَيْهَا، وأَتَوْهَا، فَقَالَتْ: نَعَمْ هُوَ هٰذَا. فَأَتَوا بِهِ رَسُولَ اللهِ ﷺ، فَلَمَّا أَمَرَ بِهِ لِيُرْجَمَ قَامَ صَاحِبُها الَّذي وَقَعَ عَلَيْهَا فَقَالَ: يَا رَسُولَ اللهِ، أَنَا صَاحِبُها، فَقَالَ لَهَا: «اذْهَبِي فَقَدْ غَفَرَ اللهُ لَكِ»، وقَالَ لِلرَّجُلِ قَوْلًا حَسَنًا، وقَالَ لِلرَّجُلِ الَّذي وَقَعَ عَلَيْهَا: «ارْجُمُوهُ»، وقَالَ: «لَقَدْ

تَابَ تَوْبَةً لَوْ تَابَهَا أَهْلُ الْمَدِينَةِ لَقُبِلَ مِنْهُمْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ، وعَلْقَمَةُ بْنُ وائِلِ بْنِ حُجْرٍ سَمِعَ مِنْ أَبِيهِ، وهُوَ أَكْبَرُ مِنْ عَبْدِ الْجَبَّارِ، وعَبْدُ الْجَبَّارِ لَمْ يَسْمَعْ مِنْ أَبِيهِ.

relations with her: 'Stone him.' Then he said: 'He has repented a repentance that, if the inhabitants of Al-Madīnah had repented with, it would have been accepted from them.''' (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*. 'Alqamah bin Wā'il bin Ḥujr heard from his father; he was older than 'Abdul-Jabbār, and 'Abdul-Jabbār did not hear from his father.

تخريج: [إسناده حسن] وأخرجه أبو داود، الحدود، باب: في صاحب الحد يجيء فيقر، ح:٤٣٧٩ عن محمد بن يحيى الذهلي به وصححه ابن الجارود، ح:٨٢٣ (والرجل لم يرجم بعد).

Comments:

If a rape is proven against the will of a woman, according to Imām Mālik and Shāfi'ī she deserves the dowry and the court has to help her in getting her right. In the view of Imām Abū Ḥanīfah and Sufyān she does not deserve the dowry.

Chapter 23. What Has Been Related About One Who Commits Bestiality

(المعجم ٢٣) - بَابُ مَا جَاءَ فِيمَنْ يَقَعُ عَلَى الْبَهِيمَةِ (التحفة ٢٣)

١٤٥٥ - حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرٍو السَّوَّاقُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ وَجَدْتُمُوهُ وَقَعَ عَلَى بَهِيمَةٍ فَاقْتُلُوهُ وَاقْتُلُوا الْبَهِيمَةَ». فَقِيلَ لِابْنِ عَبَّاسٍ: مَا شَأْنُ الْبَهِيمَةِ؟ قَالَ: مَا سَمِعْتُ مِنْ رَسُولِ اللهِ ﷺ فِي ذٰلِكَ شَيْئًا، ولَكِنْ أَرَى رَسُولَ اللهِ ﷺ كَرِهَ أَنْ يُؤْكَلَ مِنْ لَحْمِهَا أَوْ يُنْتَفَعَ بِهَا، وقَدْ عُمِلَ بِهَا ذٰلِكَ الْعَمَلُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ

1455. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "Whomever you see having relations with an animal then kill him and kill the animal." So it was said to Ibn 'Abbās: "What is the case of the animal?" He said: "I did not hear anything from the Messenger of Allāh ﷺ about this, but I see that the Messenger of Allāh ﷺ disliked eating its meat or using it, due to the fact that such a (heinous) thing had been done with that animal." (*Ḥasan*)

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* except from the narration of 'Amr bin Abī 'Amr

from 'Ikrimah, from Ibn 'Abbās, from the Prophet ﷺ. Sufyān Ath-Thawrī reported from 'Āṣim, from Abū Razīn, from Ibn 'Abbās who said: "Whoever has relations with a beast, then there is no legal punishment for him." That was narrated to us by Muḥammad bin Bash-shār (who said): "'Abdur-Raḥmān bin Mahdī narrated to us, Sufyān Ath-Thawrī narrated to us." This is more correct than the first *Ḥadīth*. This is acted upon according to the people of knowledge, it is the view of Aḥmad and Isḥāq.

إِلَّا مِنْ حَدِيثِ عَمْرِو بْنِ أَبِي عَمْرٍو عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ. وَقَدْ رَوَى سُفْيَانُ الثَّوْرِيُّ عَنْ عَاصِمٍ، عَنْ أَبِي رَزِينٍ، عَنِ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: مَنْ أَتَى بَهِيمَةً فَلَا حَدَّ عَلَيْهِ.

حَدَّثَنَا بِذٰلِكَ مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ الثَّوْرِيُّ، وَهٰذَا أَصَحُّ مِنَ الْحَدِيثِ الْأَوَّلِ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، وَهُوَ قَوْلُ أَحْمَدَ، وَإِسْحَاقَ.

تخريج: [إسناده حسن] وأخرجه أبو داود، الحدود، باب: فيمن أتى بهيمةً، ح:٤٤٦٤ من حديث عبدالعزيز بن محمد به وانظر نيل المقصود، ق ص:٩٦٣ * أثر ابن عباس: أبو داود، ح:٤٤٦٥ والنسائي في الكبرى، ح:٧٣٤١ عن عاصم به، وقال النسائي: "هذا غير صحيح" وهذا الأثر في حق من لم يحصن، وأما من أحصن فحده القتل كما في الحديث المرفوع.

Comments:

Sexual intercourse with animals is one of the most disgusting acts. Though this is not considered fornication, yet the performer deserves a severe punishment. This punishment should be exemplary and a clear warning to others.

Chapter 24. What Has Been Related About The Punishment Of The Sodomite

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي حَدِّ اللُّوطِيِّ (التحفة ٢٤)

1456. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "Whomever you find doing the actions of the people of Lūṭ then kill the one doing it, and the one it is done to." (***Ḥasan***)

[He said:] There are narrations on this topic from Jābir and Abū Hurairah.

[Abū 'Eīsā said:] It is only through

١٤٥٦ - **حَدَّثَنَا** مُحَمَّدُ بْنُ عَمْرٍو السَّوَّاقُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ وَجَدْتُمُوهُ يَعْمَلُ عَمَلَ قَوْمِ لُوطٍ فَاقْتُلُوا الْفَاعِلَ وَالْمَفْعُولَ بِهِ» [قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ وَأَبِي هُرَيْرَةَ. [قَالَ أَبُو عِيسَى:] وَإِنَّمَا نَعْرِفُ

this route that we know of this to be a *Ḥadīth* of Ibn 'Abbās from the Prophet ﷺ. Muḥammad bin Isḥāq reported this *Ḥadīth* from 'Amr bin Abī 'Amr, so he said: "Those who do the act of the people of Lūṭ are cursed." And he did not mention killing in it. He did mention: "Those who have relations with a beast are cursed." This *Ḥadīth* has been reported from 'Āṣim bin 'Umar, from Suhail bin Abī Ṣāliḥ, from his father, from Abū Hurairah, from the Prophet ﷺ saying: "Kill the doer and the one it is done to."

[Abū 'Eīsā said:] There is some disparagement in its chain of narration, we do not know of anyone who reported it from Suhail bin Abī Ṣāliḥ besides 'Āṣim bin 'Umar Al-'Umarī, and 'Āṣim bin 'Umar was graded weak in *Ḥadīth* due to his memory.

The people of knowledge differ over the legal punishment for the sodomite. Some of them held the view that he has to be stoned, whether married or not married. This is the view of Mālik, Ash-Shāfi'ī, Aḥmad and Isḥāq.

Some of the people of knowledge among the *Fuqahā'* from the *Tābi'īn* – among them Al-Ḥasan Al-Baṣrī, Ibrāhīm An-Nakha'ī, 'Aṭā' bin Abī Rabāḥ, and others – said that the legal punishment for the sodomite is the legal punishment for illegal sexual relations. This is the view of Ath-Thawrī and the people of Al-Kūfah.

هٰذَا الْحَدِيثَ عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ مِنْ هٰذَا الْوَجْهِ. ورَوَى مُحَمَّدُ بْنُ إِسْحَاقَ هٰذَا الْحَدِيثَ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو فَقَالَ: «مَلْعُونٌ مَنْ عَمِلَ عَمَلَ قَوْمِ لُوطٍ» وَلَمْ يَذْكُرْ فِيهِ الْقَتْلَ، وذَكَرَ فِيهِ: «مَلْعُونٌ مَنْ أَتَى بَهِيمَةً». وقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنْ عَاصِمِ ابْنِ عُمَرَ، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «اقْتُلُوا الْفَاعِلَ والمَفْعُولَ بِهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ فِي إِسْنَادِهِ مَقَالٌ، ولَا نَعْلَمُ أَحَدًا رَوَاهُ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ غَيْرَ عَاصِمِ بْنِ عُمَرَ العُمَرِيِّ، وعَاصِمُ بْنُ عُمَرَ يُضَعَّفُ فِي الْحَدِيثِ مِنْ قِبَلِ حِفْظِهِ. واخْتَلَفَ أَهْلُ الْعِلْمِ فِي حَدِّ اللُّوطِيِّ، فَرَأَى بَعْضُهُمْ أَنَّ عَلَيْهِ الرَّجْمَ أَحْصَنَ أَوْ لَمْ يُحْصِنْ. وهٰذَا قَوْلُ مالِكٍ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ.

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ فُقَهَاءِ التَّابِعِينَ، مِنْهُمْ: الْحَسَنُ البَصْرِيُّ، وإِبْرَاهِيمُ النَّخَعِيُّ، وعَطاءُ بْنُ أَبِي رَباحٍ وغَيْرُهُمْ، قَالُوا: حَدُّ اللُّوطِيِّ حَدُّ الزَّانِي، وهُوَ قَوْلُ الثَّوْرِيِّ وأَهْلِ الْكُوفَةِ.

تخريج: **[إسناده حسن]** وأخرجه أبو داود، الحدود، باب: فيمن عمل عمل قوم لوط، ح:٤٤٦٢ وابن ماجه، ح:٢٥٦١ من حديث عبدالعزيز الدراوردي به، وصححه ابن الجارود، ح:٨٢٠ والحاكم:٤/ ٣٥٥ والذهبي وغيرهم * وفي الباب عن جابر [يأتي:١٤٥٧] وأبي هريرة [ابن ماجه، ح:٢٥٦٢].

Comments:

It is agreed upon that sodomy is unlawful, but there is difference of opinion among the scholars. The punishment of a sodomite, married or unmarried is stoning. 'Alī, Ibn 'Abbās, Jābir bin Zaid, Zuhrī, Rabī'ah, Mālik, and Isḥāq all support this view. One point of view of Imām Aḥmad and Ash-Shāfi'ī is also the same. This is the correct point of view.

1457. Jābir narrated that the Messenger of Allāh ﷺ said: "What I fear most from my *Ummah* is the behavior of the people of Lūṭ." ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we only know of it from this route, from 'Abdullāh bin Muḥammad bin 'Aqīl bin Abī Ṭālib, from Jābir.

١٤٥٧ - **حَدَّثَنَا** أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هارُونَ: حَدَّثَنَا هَمَّامٌ عَنِ القَاسِمِ ابْنِ عَبْدِ الْوَاحِدِ المَكِّيِّ، عَنْ عَبْدِ اللهِ بْنِ مُحَمَّدِ بْنِ عَقِيلٍ أَنَّهُ سَمِعَ جَابِرًا يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَخْوَفَ مَا أَخَافُ عَلَى أُمَّتِي عَمَلُ قَوْمِ لُوطٍ».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ إِنَّمَا نَعْرِفُهُ مِنْ هٰذَا الْوَجْهِ عَنْ عَبْدِ اللهِ بْنِ مُحَمَّدِ بْنِ عَقِيلِ بْنِ أَبِي طَالِبٍ، عَنْ جَابِرٍ.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الحدود، باب من عمل عمل قوم لوط، ح:٢٥٦٣ من حديث القاسم بن عبدالواحد به وصححه الحاكم:٤/ ٣٥٧ والذهبي.

Comments:

Sodomy and lesbianism are among the most disgusting forms of sexual satisfaction. Old civilizations were destroyed and stones were rained upon such people, as stated in *Sūrat Hūd* Verse 82. "We turned (the cities) upside down and rained down, on them stones of baked clay, spread layer on layer."

Chapter 25. What Has Been Related About The Apostate

(المعجم ٢٥) - بَابُ مَا جَاءَ فِي الْمُرْتَدِّ (التحفة ٢٥)

1458. 'Ikrimah narrated that 'Alī burnt some people who apostasized from Islām. This news reached Ibn 'Abbās, so he said: "If it were me I would have killed them according to the statement of the Messenger

١٤٥٨ - **حَدَّثَنَا** أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ الْبَصْرِيُّ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ: حَدَّثَنَا أَيُّوبُ عَنْ عِكْرِمَةَ: أَنَّ عَلِيًّا حَرَّقَ قَوْمًا ارْتَدُّوا عَنِ الْإِسْلَامِ، فَبَلَغَ ذٰلِكَ ابْنَ عَبَّاسٍ فَقَالَ: لَوْ

of Allāh ﷺ. The Messenger of Allāh ﷺ said: 'Whoever changes his religon then kill him.' And I would not have burned them because the Messenger of Allāh ﷺ said: 'Do not punish with the puishment of Allāh.' So this reached 'Alī, and he said: "Ibn 'Abbās has told the truth." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge in cases of apostasy.

They disagree in the case of a woman who apostasizes from Islām. A group of the people of knowledge said she is to be killed. This is the view of Al-Awzā'ī, Aḥmad, and Isḥāq. Another group said that she is imprisoned not killed. This is the view of Sufyān Ath-Thawrī and others from the people of Al-Kūfah.

كُنْتُ أَنَا لَقَتَلْتُهُمْ بِقَوْلِ رَسُولِ اللهِ ﷺ، قَالَ رَسُولُ اللهِ ﷺ: «مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ»، ولَمْ أَكُنْ لأُحَرِّقَهُمْ لِأَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا تُعَذِّبُوا بِعَذَابِ اللهِ» فَبَلَغَ ذٰلِكَ عَلِيًّا فَقَالَ: صَدَقَ ابْنُ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ فِي الْمُرْتَدِّ.

واخْتَلَفُوا فِي الْمَرْأَةِ إِذا ارْتَدَّتْ عَنِ الْإِسْلَامِ، فَقَالَتْ طَائِفَةٌ مِنْ أَهْلِ الْعِلْمِ: تُقْتَلُ، وهُوَ قَوْلُ الْأَوْزَاعِيِّ، وأَحْمَدَ، وإِسْحَاقَ. وقَالَتْ طَائِفَةٌ مِنْهُمْ: تُحْبَسُ ولَا تُقْتَلُ، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وغَيْرِهِ مِنْ أَهْلِ الكُوفَةِ.

تخريج: وأخرجه البخاري، استتابة المرتدين، باب حكم المرتد والمرتدة واستتابتهم، ح:٦٩٢٢ من حديث أيوب السختياني به.

Comments:

The people, who were burnt alive, were the followers of a Jew named 'Abdullāh bin Sabah. They were hypocrites and they were involved in a heinous crime of preaching 'Alī's divinity, so 'Alī giving a lesson for others, gave them such a severe punishment.

Chapter 26. What Has Been Related About One Who Brandishes A Weapon

(المعجم ٢٦) - بَابُ مَا جَاءَ فِيمَنْ شَهَرَ السِّلَاحَ (التحفة ٢٦)

1459. Abū Mūsā narrated that the Prophet ﷺ said: "Whoever carries weapons against us, he is not from us." (*Ṣaḥīḥ*)

He said: There are narrations on this topic from Ibn 'Umar, Ibn Az-Zubair, Abū Hurairah, and

١٤٥٩ - حَدَّثَنَا أَبُو كُرَيْبٍ وأَبُو السَّائِبِ [سَالِمُ بْنُ جُنَادَةَ]: حَدَّثَنَا أَبُو أُسَامَةَ عَنْ بُرَيْدِ ابْنِ عَبْدِ اللهِ بْنِ أَبِي بُرْدَةَ، عَنْ جَدِّهِ أَبِي بُرْدَةَ، عَنْ أَبِي مُوسَى عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ حَمَلَ عَلَيْنَا السِّلَاحَ فَلَيْسَ مِنَّا».

Salamah bin Al-Akwa'.

[Abū 'Eīsā said:] The *Hadīth* of Abū Mūsā is a *Hasan Sahīh Hadīth.*

قَالَ: وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ، وابْنِ الزُّبَيْرِ، وأَبِي هُرَيْرَةَ، وسَلَمَةَ بْنِ الأَكْوَعِ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي مُوسَى حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، أخرجه البخاري، الفتن، باب قول النبي ﷺ: "من حمل علينا السلاح فليس منا" ح:٧٠٧١ عن أبي كريب ومسلم، ح:١٠٠ من حديث أبي أسامة به * وفي الباب عن ابن عمر [مسلم، ح:٩٨] وابن الزبير [النسائي:٧/١١٧، ح:٤١٠٢ والطحاوي في مشكل الآثار:٢/١١٧] وأبي هريرة [مسلم، ح:١٠١] وسلمة بن الأكوع [مسلم، ح:٩٩].

Comments:

Picking up weapons of Muslims against Muslim brothers and trying to frighten each other, or putting pressure, or fighting against each other, is against the dignity and honor of Muslims. Such behaviour is not expected from Muslims.

Chapter 27. What Has Been Related About The Legal Punishment For The *Sāhir*[1]

(المعجم ٢٧) - بَابُ مَا جَاءَ فِي حَدِّ السَّاحِرِ (التحفة ٢٧)

1460. Jundab narrated that he heard the Messenger of Allāh ﷺ saying: "The punishment of the *Sāhir* is a strike of the sword." **(*Da'īf*)**

[Abū 'Eīsā said:] We do not know of this *Hadīth* to be *Marfū'* except from this route. Ismā'īl bin Muslim Al-Makkī was graded weak in *Hadīth* due to his memory. As for Ismā'īl bin Muslim Al-'Abdī Al-Basrī, Waki' said: "He is trustworthy." It has been reported from Al-Hasan as well. What is correct is from Jundab in *Mawqūf* form.

This *Hadīth* is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others, and

١٤٦٠ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنْ إِسْمَاعِيلَ بْنِ مُسْلِمٍ، عَنِ الْحَسَنِ، عَنْ جُنْدُبٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «حَدُّ السَّاحِرِ ضَرْبَةٌ بالسَّيْفِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ مَرْفُوعًا إِلَّا مِنْ هٰذَا الْوَجْهِ، وإِسْمَاعِيلُ بْنُ مُسْلِمٍ المَكِّيُّ يُضَعَّفُ فِي الْحَدِيثِ مِنْ قِبَلِ حِفْظِهِ، وإِسْمَاعِيلُ بْنُ مُسْلِمٍ الْعَبْدِيُّ البَصْرِيُّ، قَالَ وَكِيعٌ: هُوَ ثِقَةٌ، ويُرْوَى عَنِ الْحَسَنِ أَيْضًا، والصَّحِيحُ عَنْ جُنْدَبٍ مَوْقُوفٌ والْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ، وهُوَ قَوْلُ مالِكِ بْنِ أَنسٍ، وقَالَ الشَّافِعِيُّ: إِنَّمَا

[1] It is a sorceror, a witch, or a magician.

it is the view of Mālik bin Anas. Ash-Shāfi'ī said that the *Sāhir* is only killed when the magic he practises reaches the level of disbelief, when his behavior is less than disbelief, then he did not see that he should be killed.

يُقْتَلُ السَّاحِرُ إِذَا كَانَ يَعْمَلُ مِنْ سِحْرِهِ مَا يَبْلُغُ الكُفْرَ، فَإِذَا عَمِلَ عَمَلًا دُونَ الكُفْرِ فَلَمْ يَرَ عَلَيْهِ قَتْلًا.

تخريج: [إسناده ضعيف] وأخرجه البيهقي:٨/ ١٣٦ من حديث أبي معاوية الضرير به وقال: "إسماعيل بن مسلم ضعيف" * موقوف جندب رضي الله عنه، أخرجه الدارقطني:٣/ ١١٤، ح: ٣١٨٠ وسنده صحيح وكذا ثبت عن عمر رضي الله عنه عند أبي داود، ح:٣٠٤٣.

Comments:

No doubt magic and sorcery is one of the grievous sins and its practise is strictly prohibited and unlawful. Sometimes the practices of sorcery reach the boundary of infidelity and disbelief, and sometimes it remains within the limits of grievous sin, therefore, it's teaching and learning are also unlawful. According to Ash-Shāfi'ī a magician should not be killed until he enters the boundaries of disbelief, but Imām Abū Hanīfah, Imām Ahmad and many Companions of the Prophet ﷺ and the followers of the Companions, think that the sorcerer is a disbeliever and that he does not deserve to be asked to repent. He should rather be killed. (See for details *Al-Mughnī* v.12. P. 302-303.)

Chapter 28. What Has Been Related About The One Who Steals From The Spoils Of War, And What Is To Be Done To Him

(المعجم ٢٨) - بَابُ مَا جَاءَ فِي الْغَالِّ مَا يُصْنَعُ بِهِ (التحفة ٢٨)

1461. 'Umar narrated that the Messenger of Allāh ﷺ said: "Whomever you find stealing from the spoils of war while in the path of Allāh, then burn his belongings."

Sālih (one of the narrators) said: "I entered upon Maslamah and with him was Sālim bin 'Abdullāh. There was a man there who had stolen from the spoils of war, so Sālim narrated this *Hadīth*. So he ordered accordingly, and his belongings were burnt. There was a *Mushaf* in his belongings, so Sālim said: 'Sell this and give its proceeds

١٤٦١ - حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرٍو السَّوَّاقُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ عَنْ صَالِحِ بْنِ مُحَمَّدِ بْنِ زَائِدَةَ، عَنْ سَالِمِ بْنِ عَبْدِاللهِ بْنِ عُمَرَ، عَنْ عَبْدِاللهِ بْنِ عُمَرَ، عَنْ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ وَجَدْتُمُوهُ غَلَّ فِي سَبِيلِ اللهِ فَأَحْرِقُوا مَتَاعَه». قَالَ صَالِحٌ: فَدَخَلْتُ عَلَى مَسْلَمَةَ وَمَعَهُ سَالِمُ بْنُ عَبْدِاللهِ فَوَجَدَ رَجُلًا قَدْ غَلَّ، فَحَدَّثَ سَالِمٌ بِهٰذَا الْحَدِيثِ، فَأَمَرَ بِهِ فَأُحْرِقَ مَتَاعُهُ، فَوُجِدَ فِي مَتَاعِهِ مُصْحَفٌ، فَقَالَ سَالِمٌ: بِعْ هٰذَا

as charity.'" (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except from this route. This is acted upon according to some of the people of knowledge. It is the view of Al-Awzā'ī, Aḥmad and Isḥāq.

He said: I asked Muḥammad about this *Ḥadīth* and he said: "This was only reported by Ṣāliḥ bin Muḥammad bin Zā'idah, and he is Abū Wāqid Al-Laithī, and he is *Munkar* in *Ḥadīth*."[1] Muḥammad said: "There is another *Ḥadīth* from the Prophet ﷺ about stealing from the spoils of war and he did not order burning one's goods in it." [Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*.

وتَصَدَّقْ بِثَمَنِهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وهُوَ قَوْلُ الْأَوْزَاعِيِّ، وأَحْمَدَ وإِسْحَاقَ.

قَالَ: وسَأَلْتُ مُحَمَّدًا عَنْ هٰذَا الْحَدِيثِ فَقَالَ: إِنَّمَا رَوَى هٰذَا صَالِحُ بْنُ مُحَمَّدِ بْنِ زَائِدَةَ، وهُوَ أَبُو وَاقِدٍ اللَّيْثِيُّ، وهُوَ مُنْكَرُ الْحَدِيثِ. قَالَ مُحَمَّدٌ: وقَدْ رُوِيَ فِي غَيْرِ حَدِيثٍ عَنِ النَّبِيِّ ﷺ فِي الغالِّ فَلَمْ يَأْمُرْ فِيهِ بِحَرْقِ مَتَاعِهِ. وقَالَ [أَبُو عِيسَى]: هٰذَا حَدِيثٌ غَرِيبٌ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الجهاد، باب: في عقوبة الغال، ح:٢٧١٣ من حديث عبدالعزيز الدراوردي به والحديث ضعفه البيهقي:٩/١٠٣ وغيره * صالح هذا منكر الحديث كما قال البخاري وغيره.

Comments:

Stealing from the spoils and embezzlement in it is a severe offence. The spoils of war are collective property of the Muslims, therefore, every one should be very careful about it, and no one is allowed to take anything from it until it is distributed. If someone takes anything from it before its distribution, he commits the crime of embezzlement.

Chapter 29. What Has Been Related About One Who Says To Another: "O You Effeminate!"

(المعجم ٢٩) - بَابُ مَا جَاءَ فِيمَنْ يَقُولُ لِلْآخَرِ يَا مُخَنَّثُ (التحفة ٢٩)

1462. Ibn 'Abbās narrated that the Prophet ﷺ said: "If a man says to another man: 'O you Jew' then beat him twenty times. If he says: 'O you effeminate' then beat him twenty times. And whoever has

١٤٦٢ - حَدَّثَنَا مُحَمَّدُ بْنُ رافِعٍ: حَدَّثَنَا ابْنُ أَبِي فُدَيْكٍ عَنْ إِبْرَاهِيمَ بْنِ إِسْمَاعِيلَ بْنِ أَبِي حَبِيبَةَ، عَنْ داوُدَ بْنِ الْحُصَيْنِ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ:

[1] Meaning, they abandoned narrating from him.

«إِذَا قَالَ الرَّجُلُ لِلرَّجُلِ: يَايَهُودِيُّ، فَاضْرِبُوهُ عِشْرِينَ، وَإِذَا قَالَ: يَا مُخَنَّثُ. فَاضْرِبُوهُ عِشْرِينَ، وَمَنْ وَقَعَ عَلَى ذَاتِ مَحْرَمٍ فَاقْتُلُوهُ».

relations with someone that is a *Mahram* then kill him." (*Da'īf*)

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ، وَإِبْرَاهِيمُ بْنُ إِسْمَاعِيلَ يُضَعَّفُ فِي الْحَدِيثِ.

[Abū 'Eīsā said:] We do not know of this *Hadīth* except from this route. Ibrāhīm bin Ismā'īl was graded weak in *Hadīth*.

وقَدْ رُوِيَ عَنِ النَّبِيِّ ﷺ مِنْ غَيْرِ وَجْهٍ، رَوَاهُ الْبَرَاءُ بْنُ عازِبٍ وقُرَّةُ بْنُ إِيَاسٍ الْمُزَنِيُّ: أَنَّ رَجُلًا تَزَوَّجَ امْرَأَةَ أَبِيهِ فَأَمَرَ النَّبِيُّ ﷺ بِقَتْلِهِ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَصْحَابِنَا، قَالُوا: مَنْ أَتَى ذَاتَ مَحْرَمٍ وَهُوَ يَعْلَمُ، فَعَلَيْهِ الْقَتْلُ.

It has been reported from the Prophet ﷺ through other routes; it has been reported from Al-Barā' bin 'Āzib and Qurrah bin Iyās Al-Muzanī, that a man married a previous wife of his father, so the Prophet ﷺ ordered that he be killed. This is acted upon according to our companions. They say that whoever has relations with someone that is a *Mahram* and he knows, then he is to be killed.

وقَـالَ أَحْمَدُ: مَنْ تَزَوَّجَ أُمَّهُ قُتِلَ. وقَالَ إِسْحَاقُ: مَنْ وَقَعَ عَلَى ذَاتِ مَحْرَمٍ قُتِلَ.

Ahmad said whoever has relations with his mother then he is to be killed. Ishāq said that whoever has relations with someone who is a *Mahram* then he is to be killed.

تخريج: [إسناده ضعيف جدًا] وأخرجه ابن ماجه، الحدود، باب حد القذف، ح:٢٥٦٨ من حديث ابن أبي فديك به * إبراهيم بن إسماعيل ضعيف جدًا وفيه علة أخرى * حديث البراء ابن عازب [تقدم:١٣٦٢] قرة بن أياس [ابن ماجه، ح:٢٦٠٨].

Comments:

In the light of this narration, if someone gives an offensive and objectionable nickname to a Muslim brother he can be punished under Islamic Law. Marrying a step mother or other close relatives (*Mahārim*) is prohibited. Adultery is an extremely disgusting act and a capital offence. He who marries his step mother or fornicates with other close relatives, the punishment of *Hadd* is not applied on him, he is killed. In awarding this punishment there is no difference between married or unmarried person, punishment is the same and instant. (*Tuhfat Al-Ahwadhī* v. 2. p. 339.)

Chapter 30. What Has Been Related About *At-Ta'zīr* (Unregulated Punishments)

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي التَّعْزِيرِ (التحفة ٣٠)

1463. Abū Burdah bin Niyār

١٤٦٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ بْنُ

سَعْدٍ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ بُكَيْرِ بْنِ عَبْدِ اللهِ بْنِ الْأَشَجِّ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ جَابِرِ بْنِ عَبْدِ اللهِ، عَنْ أَبِي بُرْدَةَ بْنِ نِيَارٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا يُجْلَدُ فَوْقَ عَشْرِ جَلْدَاتٍ إِلَّا فِي حَدٍّ مِنْ حُدُودِ اللهِ». [قَالَ:] وقَدْ رَوَى هٰذَا الْحَدِيثَ ابْنُ لَهِيعَةَ عَنْ بُكَيْرٍ فَأَخْطَأَ فِيهِ وقَالَ: عَنْ عَبْدِ الرَّحْمٰنِ بْنِ جَابِرِ بْنِ عَبْدِ اللهِ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ، وهُوَ خَطَأٌ. والصَّحِيحُ حَدِيثُ اللَّيْثِ بْنِ سَعْدٍ إِنَّمَا هُوَ: عَبْدُ الرَّحْمٰنِ بْنُ جَابِرِ بْنِ عَبْدِ اللهِ عَنْ أَبِي بُرْدَةَ بْنِ نِيَارٍ عَنِ النَّبِيِّ ﷺ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ بُكَيْرِ بْنِ الْأَشَجِّ، وقَدِ اخْتَلَفَ أَهْلُ الْعِلْمِ فِي التَّعْزِيرِ وأَحْسَنُ شَيْءٍ رُوِيَ فِي التَّعْزِيرِ هٰذَا الْحَدِيثُ.

narrated that the Messenger of Allāh ﷺ said: "No one is to be lashed more than ten lashes except for a legal punishment among Allāh's punishments." (*Ṣaḥīḥ*)

[He said:] Ibn Lahī'ah reported this *Ḥadīth* from Bukair and he was mistaken in it. He said: "From 'Abdur-Raḥmān bin Jābir bin 'Abdullāh, from his father, from the Prophet ﷺ." This is a mistake. What is correct is the narration of Al-Laith bin Sa'd. It should be: "Abdur-Raḥman bin Jābir bin 'Abdullāh from Abū Burdah bin Niyār, from the Prophet ﷺ."

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Gharīb*, we do not know of it except as a narration of Bukair bin Al-Ashajj. The people of knowledge differ over *At-Ta'zīr*, and the best thing reported about *At-Ta'zīr* is this *Ḥadīth*.

تخريج: متفق عليه، وأخرجه البخاري، الحدود، باب: كم التعزير والأدب؟، ح:٦٨٤٨ من حديث الليث بن سعد ومسلم، ح:١٧٠٨ من حديث بكير بن عبدالله بن الأشج به.

Comments:

This narration indicates that no offender should be given a physical punishment of more than ten lashes except if the offense he has committed is one for which a *"Ḥadd"* has been prescribed.

In the Name of Allāh, the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

16. The Chapters On Hunting From The Messenger of Allāh ﷺ

(المعجم ١٦) - **أَبْوَابُ الصَّيْدِ عَنْ رَسُولِ اللهِ ﷺ** (التحفة ١٤)

Chapter 1. What Has Been Related About What Is Eaten From The Game Caught By Dogs And What Is Not Eaten

(المعجم ١) - **بَابُ مَا جَاءَ مَا يُؤْكَلُ مِنْ صَيْدِ الْكَلْبِ وَمَا لَا يُؤْكَلُ** (التحفة ١)

1464. Abū Tha'labah Al-Khushanī said: "I said: 'O Messenger of Allāh! We are a people who hunt.' He said: 'If you send your dog and you mentioned the Name of Allāh upon it, and he catches something for you, then eat it.' I said: 'Even if he kills it?' He said: 'Even if he kills it.' I said: 'We are a people who shoot (at game).' He said: 'What you catch with your bow, then eat it.'" He said: "Then I said: 'Indeed we are a people who travel. We come across Jews, Christians, and Zoroastrians, and we do not find vessels other than theirs.' He said: 'If you do not find other than them, then wash them with water, then eat and drink from them.'" (***Ṣaḥīḥ***)

[He said:] There is something on this topic from 'Adī bin Ḥātim.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*]. 'Ā'idhullāh [bin 'Abdullāh] is Abū Idrīs Al-Khawlānī. [Abū Tha'labah Al-

١٤٦٤ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هارُونَ: حَدَّثَنَا الْحَجَّاجُ عَنْ مَكْحُولٍ، عَنْ أَبِي ثَعْلَبَةَ - والْحَجَّاجُ عَنِ الْوَلِيدِ بْنِ أَبِي مالِكٍ، عَنْ عائِذِ اللهِ بْنِ عَبْدِ اللهِ: أَنَّهُ سَمِعَ أَبَا ثَعْلَبَةَ الْخُشَنِيَّ - قَالَ: قُلْتُ: يَا رَسُولَ اللهِ! إِنَّا أَهْلُ صَيْدٍ قَالَ: «إِذَا أَرْسَلْتَ كَلْبَكَ وذَكَرْتَ اسْمَ اللهِ عَلَيْهِ فَأَمْسَكَ عَلَيْكَ فَكُلْ». قُلْتُ: وإِنْ قَتَلَ؟ قَالَ: «وإِنْ قَتَلَ». قُلْتُ: إِنَّا أَهْلُ رَمْيٍ قَالَ: «مَا رَدَّتْ عَلَيْكَ قَوْسُكَ فَكُلْ». قَالَ: قُلْتُ: إِنَّا أَهْلُ سَفَرٍ نَمُرُّ بِالْيَهُودِ والنَّصَارَى والمَجُوسِ فَلَا نَجِدُ غَيْرَ آنِيَتِهِمْ. قَالَ: «فَإِنْ لَمْ تَجِدُوا غَيْرَهَا فاغْسِلُوها بِالْمَاءِ ثُمَّ كُلُوا فِيهَا وَاشْرَبُوا».

[قَالَ:] وَفِي الْبَابِ عَنْ عَدِيِّ بْنِ حاتِمٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ]، وعائِذُ اللهِ [بْنُ عَبْدِاللهِ] هُوَ أَبُو إِدْرِيسَ الخَوْلَانِيُّ [واسْمُ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ

Khushanī's name is Jurthūm – and they say it is Jurthum – bin Nāshib. And they say it is Ibn Qais].

جُرْثُومُ - ويُقَالُ: جُرْثُمُ - بْنُ ناشِبٍ ويُقَالُ: ابْنُ قَيْسٍ].

تخريج: [صحيح] وأخرجه مسلم، الصيد والذبائح، باب: إذا غاب عنه الصيد ثم وجده، ح:١٩٣١ من طريق آخر عن مكحول به ورواه البخاري، ح:٥٤٨٨ ومسلم، ح:١٩٢٠ من حديث عائذ الله به * وفي الباب عن عدي بن حاتم [يأتي:١٤٦٥].

Comments:

A hunter who lets his trained hunting dog loose after a game, mentioned the Name of Allāh, and the dog brought the catch to his master, it can be eaten even when they kill the game. Most of the scholars hold that if the dog eats part of the catch then it is prohibited to eat it.

1465. 'Adī bin Ḥātim narrated: "I said: 'O Messenger of Allāh! We send our trained dogs to catch game for us.' He said: 'Eat what it catches for you.' I said: 'O Messenger of Allāh, and if they kill it?' He said: 'Even if they kill it, as long as they are not accompanied by some other dogs besides them.'" He said: "I said: 'O Messenger of Allāh! We hunt with the *Mi'rāḍ*.'[1] He said: 'Eat of the game that the *Mi'rāḍ* pierces, but whatever is struck by its broad side, then do not eat it.'" (*Ṣaḥīḥ*)

(Another chain) except that he said: "And he was asked about the *Mi'rāḍ*."

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٤٦٥ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا قَبِيصَةُ: حَدَّثَنَا سُفْيَانُ عَنْ مَنْصُورٍ، عَنْ إِبْرَاهِيمَ، عَنْ هَمَّامِ بْنِ الحارِثِ، عَنْ عَدِيِّ ابْنِ حاتِمٍ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ إِنَّا نُرْسِلُ كِلَابًا لَنَا مُعَلَّمَةً. قَالَ: «كُلْ مَا أَمْسَكْنَ عَلَيْكَ». قُلْتُ: يَا رَسُولَ اللهِ، وإِنْ قَتَلْنَ؟ قَالَ: «وإِنْ قَتَلْنَ، مَا لَمْ يَشْرَكْهَا كَلْبٌ مِنْ غَيْرِهَا». قَالَ: قُلْتُ: يَا رَسُولَ اللهِ! إِنَّا نَرْمِي بِالْمِعْرَاضِ قَالَ: «ما خَزَقَ فَكُلْ، ومَا أَصَابَ بِعَرْضِهِ فَلَا تَأْكُلْ».

حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى: حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ: حَدَّثَنَا سُفْيَانُ عَنْ مَنْصُورٍ نَحْوَهُ، إِلَّا أَنَّهُ قَالَ: وسُئِلَ عَنِ المِعْرَاضِ.

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الذبائح والصيد، باب ما أصاب المعراض بعرضه، ح:٥٤٧٧ عن قبيصة ومسلم، ح:١٩٢٩ من حديث منصور به.

Comments:

As for the literal meaning of *Mi'rāḍ*, there is a difference of opinion in the explanation of this word among the scholars. According to Imām Nawawī it

[1] A sharp edged piece of wood, or a piece of wood with a sharp piece of iron attached.

means a thick and heavy stick with an iron blade on one of its ends or an arrow without an iron head.

Chapter 2. What Has Been Related About The Game Caught By A Zoroastrian's Dog

(المعجم ٢) - بَابُ مَا جَاءَ فِي صَيْدِ كَلْبِ الْمَجُوسِيِّ (التحفة ٢)

1466. Jābir bin 'Abdullāh narrated: "We have been forbidden from the game caught by a Zoroastrian's dog." ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except from this route. This is acted upon according to most of the people of knowledge. They do not permit the game caught by the Zoroastrian's dog. Al-Qāsim bin Abī Bazzah (one of the narrators) is Al-Qāsim bin Nāfi' Al-Makkī.

١٤٦٦ - حَدَّثَنَا يُوسُفُ بْنُ عِيسَى: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا شَرِيكٌ عَنِ الْحَجَّاجِ، عَنِ الْقَاسِمِ بْنِ أَبِي بَزَّةَ، عَنْ سُلَيْمَانَ الْيَشْكُرِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: نُهِينَا عَنْ صَيْدِ كَلْبِ الْمَجُوسِيِّ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ لَا يُرَخِّصُونَ فِي صَيْدِ كَلْبِ الْمَجُوسِ. وَالْقَاسِمُ بْنُ أَبِي بَزَّةَ هُوَ الْقَاسِمُ بْنُ نَافِعٍ الْمَكِّيُّ.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الصيد، باب صيد كلب المجوس والكلب الأسود البهيم، ح:٣٢٠٩ من حديث وكيع به وضعفه البوصيري لتدليس حجاج بن أرطاة.

Comments:

It is unlawful and prohibited to eat the game hunted by the dogs of those non-Muslims whose slaughter is unlawful for Muslims, except that catch which is brought alive to the master, and a Muslim slaughters it by mentioning the Name of Allāh. However if a Muslim let loose the dog of a non-Muslim, by mentioning the Name of Allāh, the catch will be lawful to eat. If a non-Muslim let loose a dog of a Muslim if the game will be unlawful to eat, except the catch is brought alive and a Muslim slaughters it in the Name of Allāh. (*Tuḥfat Al-Aḥwadhī* v.2. p.341.)

Chapter 3. What Has Been Related About The Game Caught By Falcons

(المعجم ٣) - بَابُ [مَا جَاءَ] فِي صَيْدِ الْبُزَاةِ (التحفة ٣)

1467. 'Adī bin Ḥātim narrated: "I asked the Messenger of Allāh ﷺ about the game caught by a falcon. So he said: 'What it catches for you, then eat it.'" ***(Ḍa'īf)***

١٤٦٧ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ وَهَنَّادٌ وَأَبُو عَمَّارٍ، قَالُوا: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنْ مُجَالِدٍ، عَنِ الشَّعْبِيِّ، عَنْ عَدِيِّ بْنِ حَاتِمٍ

قَالَ: سَأَلْتُ رَسُولَ اللهِ ﷺ عَنْ صَيْدِ الْبَازِي؟ فَقَالَ: «مَا أَمْسَكَ عَلَيْكَ فَكُلْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ مُجالِدٍ عَنِ الشَّعْبِيِّ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ: لَا يَرَوْنَ بِصَيْدِ الْبُزَاةِ وَالصُّقُورِ بَأْسًا. وقَالَ مُجَاهِدٌ: الْبُزَاةُ، هُوَ الطَّيْرُ الَّذِي يُصَادُ بِهِ مِنَ الْجَوَارِحِ الَّتِي قَالَ اللهُ تَعالَى: ﴿وَمَا عَلَّمْتُم مِّنَ ٱلْجَوَارِحِ﴾ [المائدة: ٤] - فَسَّرَ الْكِلَابَ والطَّيْرَ الَّذي يُصَادُ بِهِ - وقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ فِي صَيْدِ الْبَازِي وإِنْ أَكَلَ مِنْهُ، وقَالُوا: إِنَّمَا تَعْلِيمُهُ إجابَتُهُ، وكَرِهَهُ بَعْضُهُمْ والْفُقَهَاءُ، أَكْثَرُهُمْ قَالُوا: يَأْكُلُ وإِنْ أَكَلَ مِنْهُ.

[Abū 'Eīsā said:] We do not know of this *Hadīth* except as a narration of Mujālid from Ash-Sha'bī. This is acted upon according to the people of knowledge. They do not see any harm in the game caught by a falcon or hawk. Mujāhid said about *Al-Buzāh* (falcons) that it is a bird that is used for hunting, it is one of the predators which Allāh Most High mentioned: *And what you have trained of predators.*[1] This refers to the dogs and birds that are used for hunting. Some of the people of knowledge have permitted the game caught by falcons, even if they have eaten some of it. They said its training only refers to it responding (to calls to retrieve). Some of them disliked it. As for the *Fuqahā'*, most of them said it can be eaten, even if the falcon ate from it.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الصيد، باب: في الصيد، ح:٢٨٥١ من حديث مجالد به وهو ضعيف وللحديث شواهد موقوفة عند البيهقي: ٩/ ٢٣٥، ٢٣٨ وغيره.

Comments:

If a hunting dog eats a part of the catch, in the view of scholars it is prohibited and unlawful to eat, but the game hunted by the birds of prey is lawful to eat, even if the hunting bird eats a part of it.

Chapter 4. (What Has Been Related) About A Man Who Shoots Some Game Then He Loses Sight Of It

(المعجم ٤) - **بَابُ [مَا جَاءَ] فِي الرَّجُلِ يَرْمِي الصَّيْدَ فَيَغِيبُ عَنْهُ** (التحفة ٤)

١٤٦٨ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ: حَدَّثَنَا شُعْبَةُ عَنْ أَبِي بِشْرٍ قَالَ: سَمِعْتُ سَعِيدَ بْنَ جُبَيْرٍ يُحَدِّثُ عَنْ عَدِيِّ بْنِ

1468. 'Adī bin Hātim narrated: "I said: 'O Messenger of Allāh! I shoot some game and then find my arrow in it the next day.' He said: 'If you know that your arrow killed

[1] *Al-Mā'idah* 5:4.

حَاتِمٍ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ أَرْمِي الصَّيْدَ فَأَجِدُ فِيهِ مِنَ الْغَدِ سَهْمِي. قَالَ: «إِذَا عَلِمْتَ أَنَّ سَهْمَكَ قَتَلَهُ ولَمْ تَرَ فِيهِ أَثَرَ سَبُعٍ فَكُلْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. ورَوَى شُعْبَةُ هٰذَا الْحَدِيثَ عَنْ أَبِي بِشْرٍ وعَبْدِ الْمَلِكِ بْنِ مَيْسَرَةَ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنْ عَدِيِّ بْنِ حَاتِمٍ [وعَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ مِثْلَهُ]. وكِلَا الْحَدِيثَيْنِ صَحِيحٌ.

وفِي الْبَابِ عَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ.

it, and you don't see any marks of predators, then eat it.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of the people of knowledge. Shu'bah reported this *Ḥadīth* from Abū Bishr and 'Abdul-Mālik bin Maisarah, from Sa'eed bin Jubair, from 'Adī bin Ḥātim [and from Abū Tha'labah Al-Khushanī, and it is similar]. And both of the *Aḥādīth* are *Ṣaḥīḥ*.

تخريج: [**صحيح**] وأخرجه النسائي:٧/ ١٩٣، ح:٤٣٠٥ من حديث أبي بشر جعفر بن أياس به وهو في مسند أبي داود الطيالسي، ح:١٠٤١ وللحديث شواهد كثيرة * حديث عبدالملك بن ميسرة، رواه الطيالسي والنسائي، ح:٤٣٠٧ * وفي الباب عن أبي ثعلبة الخشني [مسلم، ح:١٩٣١].

Comments:

In case a hunter shoots an arrow and it hits the game, but the game disappears with the arrow, and the hunter is unable to find it, and if after one or two days he finds it dead and he finds his arrow in the body of the game, he recognizes his arrow and he is sure that the prey was killed by his arrow, and that no other wild animal has touched it, it is lawful to eat it. (*Sharḥ Ṣaḥīḥ Muslim & An-Nawawī* v.2. p. 142 and (*Tuḥfat Al-Aḥwadhī* v.2. p. 342.)

Chapter 5. What Has Been Related About One Who Shoots Some Game, Then He Finds It Dead In The Water

(المعجم ٥) - بَابُ [مَا جَاءَ] فِيمَنْ يَرْمِي الصَّيْدَ فَيَجِدُهُ مَيِّتًا فِي الْمَاءِ (التحفة ٥)

1469. 'Adī bin Ḥātim narrated: "I asked the Messenger of Allāh ﷺ about hunting, so he said: 'Mention Allāh's Name when you shoot your arrow. Then, if you find it dead, eat from it, unless you found that it has fallen in (some body of) water. Then do not eat it, for you do not know if the water killed it, or your arrow.'" (*Ṣaḥīḥ*)

١٤٦٩ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا [عَبْدُ اللهِ] بْنُ الْمُبَارَكِ: أَخْبَرَنِي عَاصِمٌ الْأَحْوَلُ عَنِ الشَّعْبِيِّ، عَنْ عَدِيِّ بْنِ حَاتِمٍ قَالَ: سَأَلْتُ رَسُولَ اللهِ ﷺ عَنِ الصَّيْدِ؟ فَقَالَ: «إِذَا رَمَيْتَ بِسَهْمِكَ فَاذْكُرِ اسْمَ اللهِ، فَإِنْ وَجَدْتَهُ قَدْ قُتِلَ فَكُلْ إِلَّا أَنْ تَجِدَهُ قَدْ وَقَعَ فِي مَاءٍ فَلَا تَأْكُلْ، فَإِنَّكَ لَا تَدْرِي: الْمَاءُ

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

قَتَلَهُ أَوْ سَهْمُكَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ:

تخريج: وأخرجه مسلم، الصيد والذبائح، باب الصيد بالكلاب المعلمة والرمي: ١٩٢٩/٧ من حديث عبدالله بن المبارك به.

Chapter 6. What Has Been Related About The Dog Eating From The Game

(المعجم ٦) - [بَابُ مَا جَاءَ فِي الْكَلْبِ يَأْكُلُ مِنَ الصَّيْدِ] (التحفة ٦)

1470. 'Adī bin Ḥātim narrated: "I asked the Messenger of Allāh ﷺ about the game caught by a trained dog. He said: 'If you mention the Name of Allāh when you send your trained dog, then eat from what it catches for you. But if it eats from it, then do not eat it, for he only caught it for himself.' I said: "O Messenger of Allāh! What do you say about when our dogs get mixed with other dogs.' He said: 'You only mentioned the Name of Allāh over your dog, you did not mention it over the others."'

Sufyān said: "He disliked for him to eat it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This is acted upon according to some of [the people of knowledge among] the Companions of the Prophet ﷺ and others, regarding hunted and slaughtered animals, when they fall in a body of water: It is not to be eaten.

Regarding slaughtered animals, some of them said when the pharynx is cut and then it falls in a body of water and dies in it, then it is to be eaten. This is the view of

١٤٧٠ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ عَنْ مُجَالِدٍ، عَنِ الشَّعْبِيِّ، عَنْ عديٍّ ابْنِ حَاتِمٍ قَالَ: سَأَلْتُ رَسُولَ اللهِ ﷺ عَنْ صَيْدِ الكَلْبِ الْمُعَلَّمِ؟ قَالَ: «إِذَا أَرْسَلْتَ كَلْبَكَ الْمُعَلَّمَ وَذَكَرْتَ اسْمَ اللهِ فَكُلْ مَا أَمْسَكَ عَلَيْكَ، فَإِنْ أَكَلَ فَلَا تَأْكُلْ، فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ»، قُلْتُ: يَا رَسُولَ اللهِ! أَرَأَيْتَ إِنْ خَالَطَتْ كِلَابَنَا كِلَابٌ أُخْرَى؟ قَالَ: «إِنَّمَا ذَكَرْتَ اسْمَ اللهِ عَلَى كَلْبِكَ، ولَمْ تَذْكُرْ عَلَى غَيْرِهِ».

قَالَ سُفْيَانُ: كَرِهَ لَهُ أَكْلَهُ.

[قَالَ أَبُو عِيسَى:] والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ [أَهْلِ الْعِلْمِ مِنْ] أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ فِي الصَّيْدِ والذَّبِيحَةِ إِذَا وَقَعَا فِي الْمَاءِ: أَنْ لَا يَأْكُلَ.

وقَالَ بَعْضُهُمْ فِي الذَّبِيحَةِ: إِذَا قُطِعَ الحُلْقُومَ فَوَقَعَ فِي الْمَاءِ فَمَاتَ فِيهِ فَإِنَّهُ يُؤْكَلُ، وهُوَ قَوْلُ [عَبْدِاللهِ] بْنِ الْمُبَارَكِ. وقَدِ اخْتَلَفَ أَهْلُ الْعِلْمِ فِي الكَلْبِ إِذَا أَكَلَ مِنَ الصَّيْدِ، فَقَالَ أَكْثَرُ أَهْلِ الْعِلْمِ: إِذَا أَكَلَ

['Abdullāh] Ibn Al-Mubārak.

The people of knowledge differed over the case of the dog when it eats from the game it caught. Most of the people of knowledge said when the dog eats from it then do not eat it. This is the view of Sufyān, 'Abdullāh bin Al-Mubārak, Ash-Shāfi'ī, Aḥmad and Isḥāq.

Some of the people of knowledge, among the Companions of the Prophet ﷺ and others, permitted eating it even if the dog ate from it.

الْكَلْبُ مِنْهُ فَلَا يَأْكُلْ، وهُوَ قَوْلُ سُفْيَانَ، وَعَبْدِ اللهِ بْنِ الْمُبَارَكِ، والشَّافِعِيِّ، وأَحْمَدَ وإِسْحَاقَ.

وقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ فِي الْأَكْلِ مِنْهُ وإِنْ أَكَلَ الْكَلْبُ مِنْهُ.

تخريج: [صحيح] وأخرجه البخاري، الذبائح والصيد، باب: إذا أكل الكلب ... إلخ، ح:٥٤٨٣ ومسلم، ح:١٩٢٩ من حديث الشعبي به.

Chapter 7. What Has Been Related About Game Killed By The *Mir'āḍ*

(المعجم ٧) - بَابُ مَا جَاءَ فِي صَيْدِ الْمِعْرَاضِ (التحفة ٧)

1471. 'Adī bin Ḥātim narrated: "I asked the Prophet ﷺ about game killed by the *Mir'āḍ*. So he said: 'What you kill by its sharp edge then eat it, and what you kill by its broad side then, it was killed by something blunt.'" (***Ṣaḥīḥ***)

Another chain with similar meaning.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ṣaḥīḥ*, and this is acted upon according to the people of knowledge.

١٤٧١ - حَدَّثَنَا يُوسُفُ بْنُ عِيسَى: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا زكَرِيَّا عَنِ الشَّعْبِيِّ، عَنْ عَدِيِّ ابْنِ حَاتِمٍ قَالَ: سَأَلْتُ النَّبِيَّ ﷺ عَنْ صَيْدِ الْمِعْرَاضِ؟ فَقَالَ: «مَا أَصَبْتَ بِحَدِّهِ فَكُلْ، ومَا أَصَبْتَ بِعَرْضِهِ فَهُوَ وقِيذٌ».

حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ عَنْ زَكَرِيَّا، عَنِ الشَّعْبِيِّ، عَنْ عَدِيِّ بْنِ حَاتِمٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ.

تخريج: متفق عليه، وأخرجه البخاري، الذبائح والصيد، باب التسمية على الصيد، ح:٥٤٧٥ ومسلم، ح:١٩٢٩/ ٤ من حديث زكريا به.

Comments:

If the hunter is sure that the prey died from the arrow shoot before falling in the water, it can be eaten, but if it is suspected that the prey died after falling in the water it should not be eaten. (*Minnat Al-Mun'im* v.3. p.303.)

Chapter 8. What Has Been Related About Slaughtering With *Al-Marwah* (Granite)[1]

1472. Jābir bin 'Abdullāh narrated that a man from his people hunted a rabbit or two and slaughtered them with *Marwah*. Then he hung them up until he met the Messenger of Allāh ﷺ, so he asked him about that, and he ﷺ told him to eat them. (***Hasan***)

[He said:] There are narrations on this topic from Muḥammad bin Ṣafwān, Rāfi', and 'Adī bin Ḥātim.

[Abū 'Eīsā said:] Some of the people of knowledge permitted slaughtering with *Marwah*, and they did not see any harm in eating rabbits. This is the view of most of the people of knowledge. Some of them disliked eating rabbits.

The companions of Ash-Sha'bī conflicted in reporting this *Ḥadīth*. Dāwūd bin Abī Hind reported it from Ash-Sha'bī, "from Muḥammad bin Ṣafwān." While 'Āṣim Al-Aḥwal reported from Ash-Sha'bī, "from Ṣafwān bin Muḥammad, or, Muḥammad bin Ṣafwān." Muḥammad bin Ṣafwān is more correct.

Jābir Al-Ju'fī reported it from Ash-Sha'bī, "from Jābir bin 'Abdullāh" and it is similar to the narration of Qatādah from Ash-Sha'bī (no. 1472). This implies that Ash-Sha'bī reported it from all of

(المعجم ٨) - بَابُ [مَا جَاءَ] فِي الذَّبْحِ بِالْمَرْوَةِ (التحفة ٨)

١٤٧٢ - **حَدَّثَنَا** مُحَمَّدُ بْنُ يَحْيَى [الْقُطَعِيُّ]: حَدَّثَنَا عَبْدُ الأَعْلَى عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنِ الشَّعْبِيِّ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ: أَنَّ رَجُلًا مِنْ قَوْمِهِ صَادَ أَرْنَبًا أَوِ اثْنَتَيْنِ فَذَبَحَهُمَا بِمَرْوَةٍ فَتَعَلَّقَهُمَا حَتَّى لَقِيَ رَسُولَ اللهِ ﷺ، فَسَأَلَهُ، فَأَمَرَهُ بِأَكْلِهِمَا.

[قَالَ:] وفِي الْبَابِ عَنْ مُحَمَّدِ بْنِ صَفْوَانَ، ورافِعٍ، وعَدِيِّ بْنِ حاتِمٍ.

[قَالَ أَبُو عِيسَى:] وقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ أَنْ [يُذَكِّيَ] بِمَرْوَةٍ ولَمْ يَرَوْا بِأَكْلِ الْأَرْنَبِ بَأْسًا، وهُوَ قَوْلُ أَكْثَرِ أَهْلِ الْعِلْمِ، وقَدْ كَرِهَ بَعْضُهُمْ أَكْلَ الْأَرْنَبِ. و[قَدِ] اخْتَلَفَ أَصْحَابُ الشَّعْبِيِّ فِي رِوَايَةِ هٰذَا الْحَدِيثِ، فَرَوَىٰ دَاوُدُ بْنُ أَبِي هِنْدٍ عَنِ الشَّعْبِيِّ، عَنْ مُحَمَّدِ بْنِ صَفْوَانَ. وَرَوَىٰ عاصِمٌ الْأَحْوَلُ عَنِ الشَّعْبِيِّ، عَنْ صَفْوَانَ بْنِ مُحَمَّدٍ أَوْ مُحَمَّدِ بْنِ صَفْوَانَ. ومُحَمَّدُ بْنُ صَفْوَانَ أَصَحُّ.

ورَوَى جَابِرٌ الْجُعْفِيُّ عَنِ الشَّعْبِيِّ، عَنْ جابِرِ بْنِ عَبْدِ اللهِ نَحْوَ حَدِيثِ قَتَادَةَ عَنِ الشَّعْبِيِّ، ويُحْتَمَلُ أَنْ يَكُونَ الشَّعْبِيُّ رَوَى عَنْهُمَا جَمِيعًا، قَالَ مُحَمَّدٌ: حَدِيثُ الشَّعْبِيِّ

[1] In *Hādī As-Sārī* Ibn Ḥajar says that it is a sharp stone after which the mountain across from Ṣafā was named. In *Tuḥfat Al-Aḥwadhī* it is given the additional description of being "white."

them. Muḥammad said: "The *Ḥadīth* of Ash-Sha'bī from Jābir is not preserved."

عَنْ جَابِرٍ غَيْرُ مَحْفُوظٍ.

تخريج: [**حسن**] وللحديث شاهد حسن عند أبي داود، ح:٢٨٢٢ وابن ماجه، ح:٣١٧٦ وغيرهما وصححه ابن حبان، ح:١٠٦٩ والحاكم والذهبي:٤/ ١١٣، ١١٤ وللحديث طرق أخرى * وفي الباب عن محمد بن صفوان [ابن ماجه، ح:٣٢٤٤] ورافع بن خديج [يأتي:١٤٩١] وعدي ابن حاتم [أبو داود، ح:٢٨٤٤].

Comments:

Most scholars and all Four *A'immah* say that eating rabbit meat is lawful, and it is allowed to hunt it with a sharp stone. (*Sharh Muslim* by An-Nawawī v. 2. p.152 and (*Tuḥfat Al-Aḥwadhī* v. 2. p343.)

Chapter 9. What Has Been Related About It Being Disliked To Eat *Maṣbūrah*[1]

(المعجم ٩) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَكْلِ الْمَصْبُورَةِ (التحفة ٩)

1473. Abū Ad-Dardā' narrated: "The Messenger of Allāh ﷺ prohibited eating the *Mujath-thamah*, and it is what is trapped and killed by arrows." (***Ḥasan***)

[He said:] There are narrations on this topic from 'Irbāḍ bin Sāriyah, Anas, Ibn 'Umar, Ibn 'Abbās, Jābir, and Abū Hurairah.

[Abū 'Eīsā said:] the *Ḥadīth* of Abū Ad-Dardā' is a *Gharīb Ḥadīth*.

١٤٧٣ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا عَبْدُ الرَّحِيمِ بْنُ سُلَيْمَانَ عَنْ أَبِي أَيُّوبَ الْإِفْرِيقِيِّ، عَنْ صَفْوَانَ بْنِ سُلَيْمٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي الدَّرْدَاءِ نَهَى رَسُولُ اللهِ ﷺ عَنْ أَكْلِ الْمُجَثَّمَةِ، وهِيَ الَّتِي تُصْبَرُ بِالنَّبْلِ.

[قَالَ:] وفِي الْبَابِ عَنْ عِرْبَاضِ بْنِ سَارِيَةَ، وأَنَسٍ، وابْنِ عُمَرَ، وابْنِ عَبَّاسٍ، وجَابِرٍ، وأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي الدَّرْدَاءِ حَدِيثٌ غَرِيبٌ.

تخريج: [**حسن**] وأخرجه أحمد:٥/ ١٩٥ والحميدي ح:٣٩٧ من حديث سعيد بن المسيب به وللحديث شواهد انظر الحديث الآتي:١٨٢٥ * وفي الباب عن عرباض بن سارية [يأتي:١٤٧٤] وأنس [البخاري، ح:٥٥١٣ ومسلم، ح:١٩٥٦] وابن عمر [البخاري، ح:٥٥١٥ ومسلم، ح:١٩٥٨] وابن عباس [يأتي:١٤٧٥] وجابر [مسلم، ح:١٩٥٩] وأبي هريرة [يأتي:١٧٩٥].

[1] Game that is tied or trapped, and then killed.

Comments:

'Maṣbūrah' and *'Mujath-thamah'* is that animal which is tied for the purpose of making it a target and it dies as a result of Shooting.

1474. Umm Ḥabībah bint Al-'Irbāḍ narrated from her father: "On the Day of Khaibar, the Messenger of Allāh ﷺ prohibited eating the meat of every predator that has canine teeth, the meat of every bird that has talons, the meat of the domestic donkey, the *Mujath-thamah*, the *Khalīsah*, and from having relations with a pregnant slave until she gives birth to what is in her womb." **(*Ḍa'īf*)**

Muḥammad bin Yaḥya said: "Abū 'Āṣim was asked about the *Mujath-thamah* and he said: "To ensnare a bird or something and then shoot it." He was asked about *Khalīsah*, so he said: "(Prey) that a man finds with a wolf or a predator, then he takes it from him but it dies in his hand before it can be slaughtered."

١٤٧٤ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيى وغَيْرُ واحِدٍ قَالُوا: حَدَّثَنَا أَبُو عَاصِمٍ عَنْ وَهْبِ بْنِ أَبِي خَالِدٍ، قَالَ: حَدَّثَتْنِي أُمُّ حَبِيبَةَ بِنْتُ الْعِرْبَاضِ - [وَهُوَ] ابْنُ سَارِيَةَ - عَنْ أَبِيهَا أَنَّ رَسُولَ اللهِ ﷺ نَهَى يَوْمَ خَيْبَرَ عَنْ [لُحُومِ] كُلِّ ذِي نَابٍ مِنَ السِّبَاعِ، وعَنْ كُلِّ ذِي مِخْلَبٍ مِنَ الطَّيْرِ، وعَنْ لُحُومِ الْحُمُرِ الأَهْلِيَّةِ، وعَنِ الْمُجَثَّمَةِ، وعَنِ الْخَلِيسَةِ، وأَنْ تُوطَأَ الْحَبَالَى حَتَّى يَضَعْنَ ما في بُطونِهِنَّ. قَالَ مُحَمَّدُ بْنُ يَحْيى - هُوَ الْقُطَعِيُّ -: سُئِلَ أَبُو عَاصِمٍ عَنِ الْمُجَثَّمَةِ فَقَالَ: أَنْ يُنْصَبَ الطَّيْرُ أَوِ الشَّيْءُ فيُرْمَى. وَسُئِلَ عَنِ الْخَلِيسَةِ فَقَالَ: الذِّئْبُ أَوِ السَّبُعُ يُدْرِكُهُ الرَّجُلُ فَيَأْخُذُ[هُ] مِنْهُ فَيَمُوتُ في يَدِهِ قَبْلَ أَنْ يُذَكِّيَهَا.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ٤/١٢٧ عن أبي عاصم به * أم حبيبة بنت العرباض، لم أجد من وثقها وسيأتي الحديث: ١٥٦٤ وهو حديث حسن وللحديث شواهد كثيرة دون الخليسة، انظر، ح: ١١٣١ وغيره.

Comments:

It is prohibited to use a tied animal or a living thing as a target for practice or play, because it causes extra pain to the animal and a lawful meat is wasted since it is not slaughtered. Having sexual relations with a pregnant slave woman is prohibited. *'Khalisah'* is prohibited because it dies before it is slaughtered.

1475. Ibn 'Abbās narrated: "The Messenger of Allāh ﷺ prohibited taking a living thing as a shooting target." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [This is acted upon according to the people of knowledge].

١٤٧٥ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الأَعْلَى: حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنِ الثَّوْرِيِّ، عَنْ سِمَاكٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: نَهَى رَسُولُ اللهِ ﷺ أَنْ يُتَّخَذَ شَيْءٌ فِيهِ الرُّوحُ غَرَضًا

[قَالَ أَبُو عِيسَى:] حَدِيثٌ حَسَنٌ صَحِيحٌ

[والْعَمَلُ عَلَيْهِ عِنْدَ أَهْلِ الْعِلْمِ].

تخريج: [**صحيح**] وأخرجه ابن ماجه، الذبائح، باب النهي عن صبر البهائم وعن المثلة، ح:٣١٨٧ من حديث سفيان الثوري به وله شاهد عند مسلم، ح:١٩٥٧ وغيره وبه صح الحديث.

Chapter 10. What Has Been Related About Slaughtering The Fetus

(المعجم ١٠) - بَابُ [مَا جَاءَ] فِي ذَكَاةِ الْجَنِينِ (التحفة ١٠)

1476. Abū Sa'eed narrated that the Prophet ﷺ said: "Slaughtering the fetus is (achieved by) the slaughtering of its mother." (***Sahīh***)

[He said:] There are narrations on this topic from Jābir, Abū Umāmah, Abū Ad-Dardā', and Abū Hurairah. [Abū 'Eīsā said:] This *Hadīth* is *Hasan* [*Sahīh*].

It has been reported from Abū Sa'eed through routes other than this one. And this is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Sufyān Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, Ahmad, and Ishāq. Abū Al-Waddāk's (a narrator in the chain) name is Jabr bin Nawf.

١٤٧٦ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ مُجَالِدٍ؛ ح: وحَدَّثَنَا سُفْيَانُ بْنُ وَكِيعٍ: حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ عَنْ مُجالِدٍ، عَنْ أَبِي الوَدَّاكِ، عَنْ أَبِي سَعِيدٍ عَنِ النَّبِيِّ ﷺ قَالَ: «ذَكَاةُ الْجَنِينِ ذَكَاةُ أُمِّهِ».

[قَالَ:] وَفِي الْبَابِ عَنْ جَابِرٍ، وأَبِي أُمَامَةَ، وأَبِي الدَّرْدَاءِ، وأَبِي هُرَيْرَةَ. [قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ].

وقَدْ رُوِيَ مِنْ غَيْرِ هٰذَا الْوَجْهِ عَنْ أَبِي سَعِيدٍ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، وابْنِ الْمُبَارَكِ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ. وأَبُو الْوَدَّاكِ اسْمُهُ جَبْرُ ابْنُ نَوْفٍ.

تخريج: [**صحيح**] وأخرجه أبو داود، ح:٢٨٢٧ وابن ماجه، ح:٣١٩٩ من حديث مجالد به وتابعه يونس بن أبي إسحاق، وصححه ابن حبان، ح:١٠٧٧ وللحديث طرق أخرى * وفي الباب عن جابر [أبو داود، ح:٢٨٢٨] وأبي أمامة [الطبراني في الكبير:٨/ ١٢١، ١٢٢، ح:٧٤٩٨] وأبي الدرداء [الطبراني في الكبير:٨/ ١٢١، ١٢٢، ح:٧٤٩٨] وأبي هريرة [الحاكم:٤/ ١١٤].

Comments:

'Al-Janīn' means fetus or embryo, here in this narration it means a baby that is still in the mother's womb. With the exception of Imām Abū Hanīfah, all other *A'immah*, Companions of the Prophet ﷺ followers of the Companions, and almost all the scholars agree and support this view; that if a pregnant animal is slaughtered, there is no need to slaughter the baby animal separately, it will be considered slaughtered with the mother. Imām Abū

Yūsuf and Imām Muḥammad also support this of view, with the condition the fetus is completely formed. (See for details (*Tuḥfat Al-Aḥwadhī* v. 2. p.344-345.)

Chapter 11. What Has Been Related About It Being Disliked To Eat Anything That Possesses Canine Teeth Or Talons

(المعجم ١١) - بَابُ [مَا جَاءَ] فِي كَرَاهِيَةِ كُلِّ ذِي نَابٍ وَذِي مِخْلَبٍ (التحفة ١١)

1477. Abū Tha'labah Al-Khushanī narrated: "The Messenger of Allāh ﷺ prohibited (eating) every predator possessing canine teeth." (*Ṣaḥīḥ*)

(Another chain) with similar.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Abū Idrīs Al-Khawlānī's name is 'Ā'idhullāh bin 'Abdullāh.

١٤٧٧ - حَدَّثَنَا أَحْمَدُ بْنُ الْحَسَنِ: حَدَّثَنَا عَبْدُ اللهِ بْنُ مَسْلَمَةَ عَنْ مالِكِ بْنِ أَنَسٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي إِدْرِيسَ الْخَوْلَانِيِّ، عَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ قَالَ: نَهَى رَسُولُ اللهِ ﷺ، عَنْ كُلِّ ذِي نَابٍ مِنَ السِّبَاعِ.

حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ [الْمَخْزُومِيُّ] وغَيْرُ واحِدٍ قَالُوا: حَدَّثَنَا سُفْيَانُ [بْنُ عُيَيْنَةَ] عَنِ الزُّهْرِيِّ بِهٰذَا الْإِسْنَادِ [عَنْ أَبِي إِدْرِيسَ الْخَوْلَانِيِّ] نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو إِدْرِيسَ الْخَوْلَانِيُّ اسْمُهُ عائِذُ اللهِ بْنُ عَبْدِ اللهِ.

تخريج: متفق عليه، وأخرجه البخاري، الذبائح والصيد، باب أكل كل ذي ناب من السباع، ح:٥٥٣٠ من حديث مالك ومسلم، ح:١٩٣٢ من حديث ابن شهاب الزهري به وهو في الموطأ: ٢/ ٤٩٩ * حديث سفيان بن عيينة: البخاري، ح:٥٧٨٠ ومسلم، ح:١٩٣٢.

Comments:

All wild animals having fangs and canines like lion, cheetah, or wolf etc., are included in this category. It is prohibited to eat their meat.

1478. Jābir narrated: "On the Day of Khaibar, the Messenger of Allāh ﷺ prohibited eating domesticated donkeys, the meat of mules, every predator that possesses canine teeth, and every bird that possesses talons." (*Ṣaḥīḥ*)

١٤٧٨ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو النَّضْرِ [هَاشِمُ بْنُ الْقَاسِمِ]: حَدَّثَنَا عِكْرِمَةُ ابْنُ عَمَّارٍ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرٍ قَالَ: حَرَّمَ رَسُولُ اللهِ ﷺ يَعْنِي يَوْمَ خَيْبَرَ الْحُمُرَ الْإِنْسِيَّةَ، ولُحُومَ

الْبِغَالِ، وكُلَّ ذِي نَابٍ مِنَ السِّبَاعِ وذِي مِخْلَبٍ مِنَ الطَّيْرِ.

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وعِرْبَاضِ بْنِ سَارِيَةَ، وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ حَسَنٌ غَرِيبٌ.

[He said:] There are narrations on this topic from Abū Hurairah, Al-'Irbāḍ bin Sāriyah, and Ibn 'Abbās.

تخريج: [**صحيح**] وأخرجه أحمد: ٣/ ٣٢٣ عن أبي النضر به * وفي الباب عن أبي هريرة [يأتي: ١٤٧٩] وعرباض بن سارية [تقدم: ١٤٧٤] وابن عباس [مسلم، ح: ١٩٣٤].

Comments:

Birds having talons like the kite, vulture, falcon, hawk, etc., are included in this category, and eating their meat is unlawful.

١٤٧٩ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ ابْنُ مُحَمَّدٍ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ النَّبِيَّ ﷺ حَرَّمَ كُلَّ ذِي نَابٍ مِنَ السِّبَاعِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ.

وهُوَ قَوْلُ عَبْدِ اللهِ بْنِ الْمُبَارَكِ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ.

1479. Abū Hurairah narrated: "The Prophet ﷺ prohibited every predator that possesses canine teeth." (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. This is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others.

This is the view of 'Abdullāh bin Al-Mubārak, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

تخريج: [**إسناده حسن**] وأخرجه أحمد: ٢/ ٤١٨ عن قتيبة به وسيأتي مطولاً: ١٧٩٥ ورواه مسلم، ح: ١٩٣٣ من حديث أبي هريرة به.

Comments:

According to the view of Imām Abū Ḥanīfah, Shāfi'ī, Aḥmad and other scholars, eating the meat of wild animals having canines and birds with talons, is not lawful. In the view of Imām Malik it is abominable and disliked but not unlawful. (*Sharh Ṣaḥīḥ Muslim* v.2. p. 146.) In view of Ibn Raslān, Qurṭubī and others eating their meat is lawful. (*Tuḥfat Al-Aḥwadhī* v.2. p. 346.)

Chapter 12. What Has Been Related About: Whatever Is Cut From Something Living, Then It Is Dead Flesh

(المعجم ١٢) - بَابُ مَا جَاءَ مَا قُطِعَ مِنَ الْحَيِّ فَهُوَ مَيِّتٌ (التحفة ١٢)

1480. Abū Wāqid Al-Laithī narrated: "The Prophet ﷺ came to Al-Madīnah and they were in the habit of cutting the humps off of the camels and cutting the buttocks from the sheep. He said: "Whatever is cut from an animal while it is alive, then it is dead flesh." (***Hasan***)

(Another chain) with similar.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*. We do not know of it except as a narration of Zaid bin Aslam. This is acted upon according to the people of knowledge. Abū Wāqid Al-Laithī's name is Al-Hārith bin 'Awf.

١٤٨٠ - **حَدَّثَنَا** مُحَمَّدُ بْنُ عَبْدِ الْأَعْلَى الصَّنْعَانِيُّ: حَدَّثَنَا سَلَمَةُ بْنُ رَجَاءٍ [قَالَ]: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ عَبْدِ اللهِ بْنِ دِينَارٍ عَنْ زَيْدِ ابْنِ أَسْلَمَ، عَنْ عَطَاءِ بْنِ يَسَارٍ، عَنْ أَبِي واقِدٍ اللَّيْثِيِّ قَالَ: قَدِمَ النَّبِيُّ ﷺ الْمَدِينَةَ وَهُمْ يَجُبُّونَ أَسْنِمَةَ الْإِبِلِ، ويَقْطَعُونَ أَلْيَاتِ الغَنَمِ، فَقَالَ: «مَا يُقْطَعُ مِنَ الْبَهِيمَةِ وهِيَ حَيَّةٌ فَهُوَ مَيْتَةٌ».

حَدَّثَنَا إِبْرَاهِيمُ بْنُ يَعْقُوبَ [الْجَوْزَجَانِيُّ]: حَدَّثَنَا أَبُو النَّضْرِ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ عَبْدِ اللهِ بْنِ دِينَارٍ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ زَيْدِ بْنِ أَسْلَمَ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. وأَبُو واقِدٍ اللَّيْثِيُّ اسْمُهُ الْحَارِثُ بْنُ عَوْفٍ.

تخريج: [إسناده حسن] وأخرجه أبو داود، الصيد، باب: إذا قطع من الصيد قطعة، ح:٢٨٥٨ من حديث عبدالرحمن بن عبدالله بن دينار به وهو حسن الحديث، وصححه ابن الجارود، ح:٨٧٦ والحاكم والذهبي وله شاهد عند الحاكم: ٤/ ٢٣٩.

Comments:

Any cut off limb of an animal is unlawful for eating, because after amputation, the limb becomes lifeless and resembles a corpse. Before the advent of Islam, Arabs used to cut off the limbs of animals for eating, like humps of the camels and rump of rams etc., and used some parts as medicines to heal wounds. In this narration, the Prophet ﷺ prohibited such a practice.

Chapter 13. (What Has Been Related) About Slaughtering At The Neck And Throat

(المعجم ١٣) - بَابُ [مَا جَاءَ] فِي الذَّكَاةِ فِي الْحَلْقِ وَاللَّبَّةِ (التحفة ١٣)

1481. Abū Al-'Usharā' narrated from his father that he said: "I said: 'O Messenger of Allāh! Is

١٤٨١ - **حَدَّثَنَا** هَنَّادٌ ومُحَمَّدُ بْنُ الْعَلَاءِ قَالَا: حَدَّثَنَا وَكِيعٌ عَنْ حَمَّادِ بْنِ سَلَمَةَ؛ ح:

there no slaughtering except upon the neck and the throat?' He said: 'If you stab its thigh it would be accepted of you.'" (***Da'īf***)

Aḥmad bin Manī' (one of the narrators) said: "Yazīd bin Hārūn said: 'This is in cases of necessity.'"

[He said:] There is something on this topic from Rāfi' bin Khadīj.

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except as a narration of Ḥammād bin Salamah, and we do not know of Abū Al-'Usharā' reporting other than this *Ḥadīth* from his father. They differ about the name of Abū Al-'Usharā', some of them said his name is Usāmah bin Qihṭam. they also said [his name is] Yasār bin Barz, and they say; bin Balz, and they say his name is 'Uṭārid [attributing him to his grandfather].

وحَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ أَبِي الْعُشَرَاءِ، عَنْ أَبِيهِ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ! أَمَا تَكُونُ الذَّكَاةُ إِلَّا فِي الْحَلْقِ وَاللَّبَّةِ؟ قَالَ: «لَوْ طَعَنْتَ فِي فَخِذِهَا لَأَجْزَأَ عَنْكَ» قَالَ أَحْمَدُ بْنُ مَنِيعٍ: قَالَ يَزِيدُ بْنُ هَارُونَ: هٰذَا فِي الضَّرُورَةِ.

[قَالَ:] وفِي الْبَابِ عَنْ رافِعِ بْنِ خَدِيجٍ.

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ حَمَّادِ بْنِ سَلَمَةَ، ولَا نَعْرِفُ لِأَبِي الْعُشَرَاءِ عَنْ أَبِيهِ غَيْرَ هٰذَا الْحَدِيثِ، واخْتَلَفُوا فِي اسْمِ أَبِي الْعُشَرَاءِ، فَقَالَ بَعْضُهُمْ: اسْمُهُ أُسَامَةُ بْنُ قِهْطَمٍ، ويُقَالُ: [اسْمُهُ] يَسَارُ بْنُ بَرْزٍ. ويُقَالُ: ابْنُ بَلْزٍ. ويُقَالُ: اسْمُهُ عُطَارِدٌ [نُسِبَ إِلى جَدِّهِ].

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الذبائح، باب ذكاة الناد من البهائم، ح: ٣١٨٤ من حديث وكيع، وأبو داود، ح: ٢٨٢٥ والنسائي، ح: ٤٤١٣ من حديث حماد بن سلمة به وصححه ابن الجارود، ح: ٩٠٧ وضعفه أحمد وغيره * قال البخاري في أبي العشراء: "في حديثه واسمه وسماعه من أبيه نظر" وله شاهد ضعيف عند الهيثمي في مجمع الزوائد: ٤/ ٣٤ * وفي الباب عن رافع بن خديج [يأتي: ١٤٩١، ١٤٩٢].

Comments:

A camel is slaughtered from the upper part of the chest and below the throat, whereas all other animals are slaughtered from the throat. This is recommended for the slaughter of a camel but if the camel goes wild at the time of slaughtering, it is allowed to slaughter it from any part of its body. The real purpose is to drain the blood out of its body. (*Tuḥfat Al-Aḥwadhī* v.2. p.347.)

Chapter 14. What Has Been Related About Killing Geckos

(المعجم ١٤) - بَابُ [مَا جَاءَ] فِي قَتْلِ الْوَزَغِ (التحفة ١٤)

1482. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever kills a gecko in one

١٤٨٢ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنْ سُفْيَانَ، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ

أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ قَتَلَ وَزَغَةً بِالضَّرْبَةِ الْأُولَى كانَ لَهُ كَذَا وكَذَا حَسَنَةً، فَإِنْ قَتَلَهَا في الضَّرْبَةِ الثَّانِيَةِ كانَ لَهُ كَذَا وكَذَا حَسَنَةً، فَإِنْ قَتَلَهَا في الضَّرْبَةِ الثَّالِثَةِ كانَ لَهُ كَذَا وكَذَا حَسَنَةً».

strike, he has such and such reward, and if he kills it on the second strike, he will have such and such reward, and if he kills it on the third strike, then he has such and such reward." (*Ṣaḥīḥ*)

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وسَعْدٍ وعائِشَةَ وأُمِّ شَرِيكٍ.

[He said:] There are narrations on this topic from Ibn Mas'ūd, Sa'd, 'Āishah, and Umm Sharīk.

[قَالَ أَبُو عِيسَى:] وحَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

تخريج: وأخرجه مسلم، السلام، باب استحباب قتل الوزغ، ح:٢٢٤٠ عن أبي كريب به * وفي الباب عن ابن مسعود [أحمد:١/ ٤٢٠] وسعد [مسلم، ح:٢٢٣٨] وعائشة [البخاري، ح:١٨٣١ ومسلم، ح:٢٢٣٩] وأم شريك [البخاري، ح:٣٣٠٧ ومسلم، ح:٢٢٣٧].

Comments:

It is recommended to kill the gecko with the first strike otherwise it escapes. He who kills it with the first strike gets one hundred rewards and he who kills it with second or third gets less rewards accordingly. In other narrations, the reward for killing with the first strike is seventy. Therefore, it can be inferred that the number of rewards is not fixed at one hundred or seventy, it is merely to show the vastness of the reward.

Chapter 15. What Has Been Related About Killing Snakes

(المعجم ١٥) - بَابُ [مَا جَاءَ] فِي قَتْلِ الْحَيَّاتِ (التحفة ١٥)

١٤٨٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ سَالِمِ بْنِ عَبْدِ اللهِ، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «اقْتُلُوا الْحَيَّاتِ، واقْتُلُوا ذَا الطُّفْيَتَيْنِ والْأَبْتَرَ، فَإِنَّهُمَا يَلْتَمِسَانِ الْبَصَرَ ويُسْقِطَانِ الْحَبَلَ».

1483. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Kill snakes, and kill *Dhuṭ-Ṭufyatain*[1] and *Al-Abtar*,[2] because they blind the sight and cause abortions of fetuses." (*Ṣaḥīḥ*)

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ، وعائِشَةَ، وأَبِي هُرَيْرَةَ، وسَهْلِ بْنِ سَعْدٍ.

[He said:] There are narrations on this topic from Ibn Mas'ūd, 'Āishah, Abū Hurairah, and Sahl bin Sa'd.

[Abū 'Eīsā said:] This *Ḥadīth* is

[1] A snake with two stripes on its back.
[2] A snake with a very short tail.

Hasan Sahīh.

It has been reported from Ibn 'Umar, from Abū Lubābah that after that, the Prophet ﷺ prohibited killing snakes that are inhabiting one's home. It has been reported from Ibn 'Umar, from Zaid bin Al-Khattāb as well. 'Abdullāh bin Al-Mubārak said "It is only disliked to kill snakes when the snake is small like a piece of silver and not wriggling in the walkway."

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وقَدْ رُوِيَ عَنِ ابْنِ عُمَرَ، عَنْ أَبِي لُبَابَةَ: أَنَّ النَّبِيَّ ﷺ نَهَى بَعْدَ ذٰلِكَ، عَنْ قَتْلِ جِنَّانِ البُيُوتِ وهِيَ العَوامِرُ. ويُرْوَى عَنِ ابْنِ عُمَرَ، عَنْ زَيْدِ بْنِ الخَطَّابِ أَيْضًا. وقَالَ عَبْدُ اللهِ ابْنُ الْمُبَارَكِ: إِنَّمَا يُكْرَهُ مِنْ قَتْلِ الْحَيَّاتِ، [قَتْلُ] الْحَيَّةِ الَّتِي تَكُونُ دَقِيقَةً كَأَنَّهَا فِضَّةٌ، ولَا تَلْتَوِي فِي مِشْيَتِهَا.

تخريج: متفق عليه، وأخرجه البخاري، بدء الخلق، باب قول الله تعالى: ﴿وبث فيها من كل دابة﴾، ح:٣٢٩٧ ومسلم، ح:٢٢٣٣ من حديث ابن شهاب الزهري به * وفي الباب عن ابن مسعود [أبو داود، ح:٥٢٤٩] وعائشة [البخاري، ح:١٨٢٩ ومسلم، ح:١١٩٨] وأبي هريرة [أبو داود، ح:٥٢٤٨] وسهل بن سعد [الطحاوي في مشكل الآثار:٤/ ٩٥].

Comments:

There are many kinds of snakes. Some of them are extremely poisonous and their bite can cause instant death, others can affect the eyesight and may cause blindness. The bite of some snakes may also cause abortion. Keeping in view the damages caused by them, it has been recommended to kill them. (*Tuhfat Al-Ahwadhī* v. p.348.)

1484. Abū Sa'eed Al-Khudrī narrated that the Messenger of Allāh ﷺ said: "Indeed there are others inhabiting your homes. So yell at them three times (to leave). If you see any of them after that, then kill them." (***Sahīh***)

[Abū 'Eīsā said:] This is how 'Ubaidullāh bin 'Umar reported this *Hadīth*: from Saifī, from Abū Sa'eed. Mālik bin Anas reported this *Hadīth* from Saifī from Abū As-Sā'ib the freed slave of Hishām bin Zuhrah, from Abū Sa'eed [from the Prophet ﷺ], and there is a story along with the *Hadīth*.

(Another chain) similar to the

١٤٨٤ - **حَدَّثَنَا** هَنَّادٌ: حَدَّثَنَا عَبْدَةُ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ صَيْفِيٍّ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ لِبُيُوتِكُمْ عُمَّارًا فَحَرِّجُوا عَلَيْهِنَّ ثَلَاثًا، فَإِنْ بَدَا لَكُمْ بَعْدَ ذٰلِكَ مِنْهُنَّ شَيْءٌ فَاقْتُلُوهُ».

[قَالَ أَبُو عِيسَى:] هَكَذا رَوَى عُبَيْدُ اللهِ ابْنُ عُمَرَ هٰذَا الْحَدِيثَ عَنْ صَيْفِيٍّ، عَنْ أَبِي سَعِيدٍ. ورَوَى مالِكُ بْنُ أَنَسٍ هٰذَا الْحَدِيث عَنْ صَيْفِيٍّ، عَنْ أَبِي السَّائِبِ مَوْلَى هِشَامِ بْنِ زُهْرَةَ، عَنْ أَبِي سَعِيدٍ [عَنِ النَّبِيِّ ﷺ]. وفِي الْحَدِيثِ قِصَّةٌ.

narration of Mālik.

حَدَّثَنَا بِذٰلِكَ الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مالِكٌ. وهٰذَا أَصَحُّ مِنْ حَدِيثِ عُبَيْدِ اللهِ بْنِ عُمَرَ. ورَوَى مُحَمَّدُ بْنُ عَجْلَانَ عَنْ صَيْفِيٍّ نَحْوَ رِوَايَةِ مالِكٍ.

تخريج: **[إسناده صحيح]** وأخرجه أحمد: ٣/ ٢٧ من حديث عبيدالله بن عمر به * حديث مالك في الموطأ: ٢/ ٩٧٦، ٩٧٧ ومن طريقه أخرجه مسلم، ح: ٢٢٣٦ مطولاً.

Comments:

The event that has been referred to in this narration is given in detail in *Ṣaḥīḥ Muslim* (See *Minnah Al-Mun'am* v.3. p. 479. and *Sharḥ Muslim & An-Nawawī* v.2. p. 235) The summary of this event is given hereunder. It was the occasion of the Battle of Trench. A young man who was newly married sought permission from the Prophet ﷺ and went home. There he found his wife standing at the door of the house. She told him that a snake has entered their house. He went in and killed the snake by piercing it with his lance. When he was going to throw it out of the house it slipped from the lance and dropped on the young man. He died there and then. The narration of *Ṣaḥīḥ Muslim* also hints that sometimes these snakes are Jinns.

1485. Abū Lailā narrated that the Messenger of Allāh ﷺ said: "When a snake appears in your dwellings then say to it: 'We ask you – by the covenant of Nūḥ and by the covenant of Sulaimān bin Dāwūd – that you do not harm us.' If it returns, then kill it." ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it as a narration of Thābit Al-Bunānī except with this route to Ibn Abī Lailā.

١٤٨٥ - **حَدَّثَنَا** هَنَّادٌ: حَدَّثَنَا ابْنُ أَبِي زَائِدَةَ: حَدَّثَنَا ابْنُ أَبِي لَيْلَى عَنْ ثَابِتٍ الْبُنَانِيِّ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ أَبِي لَيْلَى قَالَ: قَالَ أَبُو لَيْلَى: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا ظَهَرَتِ الْحَيَّةُ فِي الْمَسْكَنِ فَقُولُوا لَهَا: إِنَّا نَسْأَلُكَ بِعَهْدِ نُوحٍ وبِعَهْدِ سُلَيْمَانَ بْنِ دَاوُدَ أَنْ لَا تُؤْذِينَا، فَإِنْ عَادَتْ فَاقْتُلُوهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ ثَابِتٍ الْبُنَانِيِّ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ ابْنِ أَبِي لَيْلَى.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الأدب، باب: في قتل الحيات، ح: ٥٢٦٠ من حديث محمد بن عبدالرحمن بن أبي ليلى به وهو ضعيف.

Comments:

There is difference of opinion among the scholars in killing snakes. Some people of knowledge say that every kind of snake should be killed immediately when and where it is seen. Some others say that the snakes living in residential houses should be warned before killing.

Chapter 16. What Has Been Related About Killing Dogs

(المعجم ١٦) - بَابُ مَا جَاءَ فِي قَتْلِ الْكِلَابِ (التحفة ١٦)

1486. 'Abdullāh bin Mughaffal narrated that the Messenger of Allāh ﷺ said: "If it were not that dogs were part of a nation among the nations, then I would order that all of them be killed. So kill every one of them that is all black." (*Hasan*)

[He said:] There are narrations on this topic from Ibn 'Umar, Jābir, Abū Rāfi', and Abū Ayyūb.

[Abū 'Eīsā said:] The *Hadīth* of 'Abdullāh bin Mughaffal is a *Hasan Sahīh Hadīth*. In some *Hadīths* it has been reported that the all black dog is a *Shaitān*. The *Bahīm* black dog is the one that does not have any white in it. Some of the people of knowledge disliked using the all black dog for hunting.

١٤٨٦ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا مَنْصُورُ بْنُ زَاذَانَ ويُونُسُ [ابْنُ عُبَيْدٍ] عَنِ الْحَسَنِ، عَنْ عَبْدِ اللهِ بْنِ مُغَفَّلٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَوْلَا أَنَّ الْكِلَابَ أُمَّةٌ مِنَ الْأُمَمِ لَأَمَرْتُ بِقَتْلِهَا كُلِّهَا، فَاقْتُلُوا مِنْهَا كُلَّ أَسْوَدَ بَهِيمٍ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ، وجَابِرٍ، وأَبِي رافِعٍ، وأَبِي أَيُّوبَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ اللهِ بْنِ مُغَفَّلٍ حَدِيثٌ حَسَنٌ صَحِيحٌ. ويُرْوَى فِي بَعْضِ الْحَدِيثِ أَنَّ الْكَلْبَ الْأَسْوَدَ الْبَهِيمَ شَيْطَانٌ، والْكَلْبُ الْأَسْوَدُ الْبَهِيمُ الَّذِي لَا يَكُونُ فِيهِ شَيْءٌ مِنَ الْبَيَاضِ. وقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ صَيْدَ الْكَلْبِ الْأَسْوَدِ الْبَهِيمِ.

تخريج: [حسن] وأخرجه أبو داود، الصيد، باب اتخاذ الكلب للصيد وغيره، ح:٢٨٤٥ وابن ماجه، ح:٣٢٠٥ والنسائي، ح:٤٢٨٥ من حديث يونس بن عبيد به وله شواهد ذكرتها في نيل المقصود * وفي الباب عن ابن عمر [يأتي:١٤٨٨] وجابر [مسلم، ح:١٥٧٢] وأبي رافع [أحمد:٦/٩] وأبي أيوب [لم أجده].

Comments:

Angels hate dogs, therefore, keeping dogs without any genuine reason and need is not allowed. There are some genuine needs when it is necessary to keep the dogs; therefore, it has not been allowed to kill all kinds of dogs.

Chapter 17. (What Has Been Related About) How Much Is Deducted from the Reward Of One Who Keeps A Dog

(المعجم ١٧) - بَابُ [مَا جَاءَ فِي] مَنْ أَمْسَكَ كَلْبًا، مَا يَنْقُصُ مِنْ أَجْرِهِ (التحفة ١٧)

1487. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Whoever keeps a dog" – or:

١٤٨٧ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنْ أَيُّوبَ، عَنْ نَافِعٍ،

"acquires a dog" – "neither for hunting nor to guard livestock, then two *Qīrāṭ*[1] are deducted from his reward, daily." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Abdullāh bin Mughaffal, Abū Hurairah, and Sufyān bin Abī Zuhair.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*. And it has been reported that the Prophet ﷺ said: "or a farm dog."

عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنِ اقْتَنَى كَلْبًا أَوِ اتَّخَذَ كَلْبًا لَيْسَ بِضَارٍ، ولَا كَلْبَ مَاشِيَةٍ، نَقَصَ مِنْ أَجْرِهِ كُلَّ يَوْمٍ قِيرَاطَانِ».

[قَالَ:] وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ مُغَفَّلٍ، وأَبِي هُرَيْرَةَ، وسُفْيَانَ بْنِ أَبِي زُهَيْرٍ.

[قَالَ أَبُو عِيسَى:] وحَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وقَدْ رُوِيَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «أَوْ كَلْبَ زَرْعٍ».

تخريج: متفق عليه، أخرجه البخاري، الذبائح والصيد، باب من اقتنى كلبًا ليس بكلب صيد أو ماشية، ح:٥٤٨٢ ومسلم، ح:١٥٧٤ من حديث نافع به ورواه أحمد:٢/ ٤ عن إسماعيل بن إبراهيم – وهو ابن علية – به * وفي الباب عن عبدالله بن مغفل [يأتي:١٤٩٩] وأبي هريرة [يأتي:١٤٩٠] وسفيان بن أبي زهير [البخاري، ح:٢٣٢٣ ومسلم، ح:١٥٧٦].

Comments:

The angels of mercy hate dogs and do not enter that house where there are dogs. As a result, the resident of the house is deprived of the blessings of Allāh. Therefore, keeping dogs in houses without a genuine cause should be avoided.

1488. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ ordered killing dogs, except for the hunting dog, or the dog that guards livestock." It was said to him: "Abū Hurairah would say: 'or a farm dog' so he (Ibn 'Umar) said: "Abū Hurairah had a farm." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٤٨٨ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ أَمَرَ بِقَتْلِ الْكِلَابِ إِلَّا كَلْبَ صَيْدٍ أَوْ كَلْبَ مَاشِيَةٍ. قَالَ: قِيلَ لَهُ: إِنَّ أَبَا هُرَيْرَةَ [كَانَ] يَقُولُ: أَوْ كَلْبَ زَرْعٍ. فَقَالَ: إِنَّ أَبَا هُرَيْرَةَ لَهُ زَرْعٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، المساقاة، باب الأمر بقتل الكلاب وبيان نسخه ... إلخ، ح:١٥٧١ من حديث حماد بن زيد به.

[1] *Qīrāṭ* is normally used to refer to a weight that is approximately 1/16th of a Dirham. The English word "carat" and its usage are related. In relation to rewards, it is also said to be much greater in size.

Comments:

It is human nature that a man tries to collect all information concerning his profession and interests. Abū Hurairah was a farmer by profession so he had more information about the issues of farmers.

1489. 'Abdullāh bin Mughaffal narrated: "I was one of those who held up the branches from the tree away from the face of the Messenger of Allāh ﷺ while he was delivering the *Khuṭbah* saying: 'If it were not that dogs were a nation among nations, then I would order that they be killed. So kill every one among them that is all black. There is no one inhabiting a home in which they keep a dog but their deeds are decreased by one *Qīrāṭ* every day – except for a hunting dog, or a farm dog, or a sheep dog.'" ***(Ṣaḥīḥ)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*. This *Ḥadīth* has been reported through other routes from Al-Ḥasan from 'Abdullāh bin Mughaffal, from the Prophet ﷺ.

١٤٨٩ - حَدَّثَنَا عُبَيْدُ بْنُ أَسْبَاطَ بْنِ مُحَمَّدٍ الْقُرَشِيُّ: حَدَّثَنَا أَبِي عَنِ الْأَعْمَشِ، عَنْ إِسْمَاعِيلَ بْنِ مُسْلِمٍ، عَنِ الْحَسَنِ، عَنْ عَبْدِ اللهِ بْنِ مُغفَّلٍ قَالَ: إِنِّي لَمِمَّنْ يَرْفَعُ أَغْصَانَ الشَّجَرَةِ عَنْ وَجْهِ رَسُولِ اللهِ ﷺ وهُوَ يَخْطُبُ، فَقَالَ: «لَوْلَا أَنَّ الْكِلَابَ أُمَّةٌ مِنَ الْأُمَمِ لَأَمَرْتُ بِقَتْلِهَا، فَاقْتُلُوا مِنْهَا كُلَّ أَسْوَدَ بَهِيمٍ، ومَا مِنْ أَهْلِ بَيْتٍ يَرْتَبِطُونَ كَلْبًا إِلَّا نَقَصَ مِنْ عَمَلِهِمْ كُلَّ يَوْمٍ قِيراطٌ إِلَّا كَلْبَ صَيْدٍ أَوْ كَلْبَ حَرْثٍ أَوْ كَلْبَ غَنَمٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنِ الْحَسَنِ، عَنْ عَبْدِ اللهِ بْنِ مغفَّلٍ عَنِ النَّبِيِّ ﷺ.

تخريج: وأخرجه مسلم، المساقاة، باب الأمر بقتل الكلاب، وبيان نسخه ... إلخ، ح:١٥٧٥ من حديث عبدالرزاق به ورواه أبو داود، ح:٢٨٤٤ عن الحسن بن علي به ✻ أثر عطاء ابن أبي رباح صحيح عنه.

1490. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever acquires a dog – with the exception of a dog to guard livestock, a hunting dog, or a farm dog – each day a *Qīrāṭ* is deducted from his reward." ***(Ḥasan)***

[Abū 'Eīsā said:] this *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

It has been reported that 'Aṭā' bin Abī Rabāḥ permitted keeping a

١٤٩٠ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ [الْحُلْوَانِيُّ] وغَيْرُ واحِدٍ قَالُوا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ أَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنِ اتَّخَذَ كَلْبًا إِلَّا كَلْبَ مَاشِيَةٍ أَوْ صَيْدٍ أَوْ زَرْعٍ انْتَقَصَ مِنْ أَجْرِهِ كُلَّ يَوْمٍ قِيرَاطٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

dog even if the man only had one sheep. Isḥāq bin Manṣūr narrated that to us (saying): "Ḥajjāj bin Muḥammad narrated that to us from Ibn Juraij from 'Aṭā'."

صَحِيحٌ.

ويُرْوَى عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ: أَنَّهُ رَخَّصَ فِي إِمْسَاكِ الْكَلْبِ وإِنْ كانَ للرَّجُلِ شَاةٌ وَاحِدَةٌ. حَدَّثَنَا بِذٰلِكَ إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ عَنِ ابْنِ جُرَيْجٍ، عَنْ عَطَاءٍ بِهٰذَا.

تخريج: [حسن] انظر، ح: ١٤٨٦ وللحديث شواهد كثيرة.

Chapter 18. (What Has Been Related) About Slaughtering With Reeds And The Like

(المعجم ١٨) - بَابُ [مَا جَاءَ] فِي الذَّكَاةِ بِالْقَصَبِ وَغَيْرِهِ (التحفة ١٨)

1491. Rāfi' bin Khadīj narrated: "I said: 'O Messenger of Allāh! We expect to meet the enemy tomorrow and we have no knives.'[1] So the Prophet ﷺ said: 'As long as it causes blood to flow, and Allāh's Name has been mentioned over it, then eat it, provided it was not done with a tooth or nail. And I will tell you why: As for the tooth it is a bone, and as for the nail it is the knife of the Ethiopians.'" (*Ṣaḥīḥ*)

(Another chain) from Rāfi' bin Khadīj [may Allāh be pleased with him] from the Prophet ﷺ and it is similar, but (the narrator) did not mention in it: "Abāyah, from his father" and this is more correct. 'Abāyah heard from Rāfi'.

This is acted upon according to the people of knowledge, they did not think that a tooth or bone could be used for slaughtering.

١٤٩١ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو الأَحْوَصِ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ، عَنْ عَبَايَةَ ابْنِ رِفَاعَةَ بْنِ رافِعِ بْنِ خَدِيجٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ رافِعِ بْنِ خَدِيجٍ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ، إِنَّا نَلْقَى الْعَدُوَّ غَدًا وَلَيْسَتْ مَعنا مُدًى فَقَالَ النَّبِيُّ ﷺ: «مَا أَنْهَرَ الدَّمَ وذُكِرَ اسْمُ اللهِ عَلَيْهِ فَكُلُوهُ مَا لَمْ يَكُنْ سِنٌّ أَوْ ظُفُرٌ، وسَأُحَدِّثُكُمْ عَنْ ذٰلِكَ: أَمَّا السِّنُّ فَعَظْمٌ وأَمَّا الظُّفُرُ فَمُدَى الْحَبَشَةِ».

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيى بْنُ سَعِيدٍ عَنْ سُفْيَانَ الثَّوْرِيِّ، قَالَ: حَدَّثَنِي أَبِي عَنْ عَبَايَةَ بْنِ رِفَاعَةَ بْنِ رافِعِ بْنِ خَدِيجٍ [رَضِيَ اللهُ عَنْهُ] عَنِ النَّبِيِّ ﷺ نَحْوَهُ ولَمْ يَذْكُرْ فِيهِ عَبَايَةَ عَنْ أَبِيهِ وهٰذَا أَصَحُّ. وعَبَايَةُ قَدْ سَمِعَ مِنْ رافِعٍ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ لَا يَرَوْنَ أَنْ يُذَكَّى بِسِنٍّ ولَا بِعَظْمٍ.

[1] This could mean that: When they meet the enemies and it happens that they have amongst the spoils, animals to slaughter. It could also mean that: they needed to slaughter animals to eat for strength to face the enemies. (*Tuḥfat Al-Aḥwadhī*)

تخريج: متفق عليه، وأخرجه البخاري، الذبائح والصيد، باب: إذا أصاب قوم غنيمةً فذبح بعضهم غنمًا أو إبلاً . . . إلخ، ح:٥٥٤٣ من حديث أبي الأحوص ومسلم، ح:١٩٦٨ من حديث سعيد بن مسروق به وحديث يحيى بن سعيد القطان متفق عليه، أخرجه البخاري، ح:٥٥٠٩ ومسلم، ح:١٩٦٨ عنه.

Comments:

Physical strength and energy is required in fighting, and the meat is a source of strength and energy. The source of meat is animals, so they are slaughtered to meet the needs of energy and power. It has been ordered to slaughter them with sharp knives. The purpose of this order is to cause them less pain.

Chapter 19. What Has Been Related About Camels, Cows, and Sheep, When They Flee And Become Wild: Are They Shot With An Arrow Or Not?

(المعجم ١٩) - **بَابُ [مَا جَاءَ فِي الْبَعِيرِ وَالْبَقَرِ وَالْغَنَمِ إِذَا نَدَّ فَصَارَ وَحْشِيًّا يُرْمَى بِسَهْمٍ أَمْ لَا]** (التحفة ١٩)

1492. Rāfi' [bin Khadīj] narrated: "We were with the Prophet ﷺ on a journey when the camel that belonged to some people ran away and they did not have a horse. So a man shot it with an arrow and Allāh stopped it. The Messenger of Allāh ﷺ said: 'Of these beasts there are some that are as wild as wild animals. So if one of them does this, then treat it similarly.'" (*Sahīh*)

(Another chain) from Rāfi' bin Khadīj from the Prophet ﷺ and it is similar, but (the narrator) did not mention in it "Abāyah from his father," (a narrator in the chain) and this is more correct.

This is acted upon according to the people of knowledge. Similarly it was reported by Shu'bah from Sa'eed bin Masrūq as in the narration of Sufyān.

١٤٩٢ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو الْأَحْوَصِ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ، عَنْ عَبَايَةَ ابْنِ رِفَاعَةَ بْنِ رَافِعِ بْنِ خَدِيجٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ رَافِعٍ [بْنِ خَدِيجٍ] قَالَ: كُنَّا مَعَ النَّبِيِّ ﷺ فِي سَفَرٍ فَنَدَّ بَعِيرٌ مِنْ إِبِلِ الْقَوْمِ ولَمْ يَكُنْ مَعَهُمْ خَيْلٌ فَرَمَاهُ رَجُلٌ بِسَهْمٍ فَحَبَسَهُ اللهُ، فَقَالَ رَسُولُ اللهِ ﷺ: «إِنَّ لِهَذِهِ الْبَهَائِمِ أَوَابِدَ كَأَوَابِدِ الْوَحْشِ فَمَا فَعَلَ مِنْهَا هٰذَا فافْعَلُوا بِهِ هٰكَذا».

حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِيهِ، عَنْ عَبَايَةَ بْنِ رِفَاعَةَ، عَنْ جَدِّهِ رافِعِ بْنِ خَدِيجٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ ولَمْ يَذْكُرْ فِيهِ عَبَايَةَ عَنْ أَبِيهِ وهٰذَا أَصَحُّ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ وهٰكَذا رَوَاهُ شُعْبَةُ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ مِنْ رِوَايَةِ سُفْيَانَ.

تخريج: وأخرجه البخاري، أيضًا، ح:٥٥٤٣ من حديث أبي الأحوص، والبخاري، ح:٢٥٠٧ ومسلم، ح:١٩٦٨ من حديث وكيع به وانظر الحديث السابق.

Comments:

Those domestic animals which are panicky and try to run away and escape from their masters, they should be hunted like game, and if they die before they are captured due to excessive drainage of blood, they are considered slaughtered. (See for details *Al-Mughnī* v.13. p. 291. and (*Tuḥfat Al-Aḥwadhī* v.2. p.352.)

In the Name of Allāh,
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

17. The Chapters On The Sacrifices From The Messenger Of Allāh ﷺ

(المعجم ١٧) - أَبْوَابُ الْأَضَاحِي عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٥)

Chapter 1. What Has Been Related About The Virtues Of Slaughtering

(المعجم ١) - بَابُ مَا جَاءَ فِي فَضْلِ الْأُضْحِيَةِ (التحفة ١)

1493. 'Āishah narrated that the Messenger of Allāh ﷺ said: "A human does no action from the actions on the Day of *Nahr* more beloved to Allāh then spilling blood. On the Day of Judgement, it will appear with its horns, and hair, and hooves, and indeed the blood will be accepted by Allāh from where it is received before it even falls upon the earth, so let your hearts delight in it." ***(Da'īf)***

[He said:] There are narrations on this topic from 'Imrān bin Husain and Zaid bin Arqam.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*. We do not know of it as a narration of Hishām bin 'Urwah except through this route. Abū Al-Muthanna's (a narrator in the chain) name is Sulaimān bin Yazīd, Ibn Abī Fudaik reports from him.

[Abū 'Eīsā said:] It has been reported that the Prophet ﷺ said about the *Udhiyyah*: "For the one who slaughters it there is a good

١٤٩٣ - حَدَّثَنَا أَبُو عَمْرٍو مُسْلِمُ بْنُ عَمْرِو [ابْنِ مُسْلِمٍ] الْحَذَّاءُ الْمَدِينِيُّ: حَدَّثَنِي عَبْدُ اللهِ ابْنُ نَافِعٍ الصَّائِغُ [أَبُو مُحَمَّدٍ] عَنْ أَبِي الْمُثَنَّى، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَا عَمِلَ آدَمِيٌّ مِنْ عَمَلٍ يَوْمَ النَّحْرِ أَحَبُّ إِلَى اللهِ مِنْ إِهْرَاقِ الدَّمِ، إِنَّهُ لَيَأْتِي يَوْمَ الْقِيَامَةِ بِقُرُونِهَا وَأَشْعَارِهَا وَأَظْلَافِهَا، وَإِنَّ الدَّمَ لَيَقَعُ مِنَ اللهِ بِمَكَانٍ قَبْلَ أَنْ يَقَعَ مِنَ الْأَرْضِ فَطِيبُوا بِهَا نَفْسًا».

[قَالَ:] وَفِي الْبَابِ عَنْ عِمْرَانَ بْنِ حُصَيْنٍ وَزَيْدِ بْنِ أَرْقَمَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ هِشَامِ بْنِ عُرْوَةَ إِلَّا مِنْ هٰذَا الْوَجْهِ. وَأَبُو الْمُثَنَّى اسْمُهُ سُلَيْمَانُ بْنُ يَزِيدَ، رَوَى عَنْهُ ابْنُ أَبِي فُدَيْكٍ.

[قَالَ أَبُو عِيسَى:] وَيُرْوَى عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ فِي الْأُضْحِيَةِ: «لِصَاحِبِهَا بِكُلِّ شَعْرَةٍ

merit for every hair" and it has been reported that he said: "for its horns."

حَسَنَةٌ» ويُرْوَى: «بِقُرُونِها».

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الأضاحي، باب ثواب الأضحية، ح:٣١٢٦ من حديث عبدالله بن نافع به * أبوالمثنى ضعيف كما في التقريب وغيره * وفي الباب عن عمران ابن حصين [الحاكم: ٤/ ٢٢٢] وزيد بن أرقم [ابن ماجه، ح:٣١٢٧] * حديث: "لصاحبها بكل شعرة حسنة" أخرجه ابن ماجه، ح:٣١٢٧ وسنده ضعيف جدًا.

Comments:

In the view of the people of knowledge, sacrifice is an emphasized *Sunnah* and leaving it, in spite of having the ability to perform it, is highly disapproved. Abū Bakr, 'Umar, Bilāl, Ibn Mas'ūd, Sa'eed bin Musayyab, 'Alqamah, Aswad, 'Aṭā, Ash-Shāfi'ī, Aḥmad, and Isḥāq have the same view, that this is an emphasized *Sunnah*. Imām Rabī'ah, Mālik, Ath-Thawri, Al-Awzā'ī, Al-Laith and Abū Ḥanīfah describe it as an obligation. (*Al-Mughnī* v. 13. p.360.) Emphatic orders for performing this *Sunnah* show its superiority and excellence.

Chapter 2. What Has Been Related About Sacrificing Two Male Sheep

(المعجم ٢) - بَابُ [مَا جَاءَ] فِي الأُضْحِيَةِ بِكَبْشَيْنِ (التحفة ٢)

1494. Anas bin Mālik narrated: "The Messenger of Allāh ﷺ slaughtered two horned male sheep which were mostly white. He slaughtered them with his hand and mentioned Allāh's Name, and he said '*Allāhu Akbar*,' and put his foot on their sides." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Alī, 'Āishah, Abū Hurairah, Jābir, Abū Ayyūb, Abū Ad-Dardā', Abū Rāfi', Ibn 'Umar, and Abū Bakrah [as well].

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٤٩٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ قتادةَ، عَنْ أَنَسِ بْنِ مالِكٍ قَالَ: ضَحَّى رَسُولُ اللهِ ﷺ بِكَبْشَيْنِ أَقْرَنَيْنِ أَمْلَحَيْنِ ذَبَحَهُمَا بِيَدِهِ وسَمَّى وكَبَّرَ، ووَضَعَ رِجْلَهُ عَلَى صِفَاحِهِمَا.

[قَالَ:] وَفِي الْبَاب عَنْ عَلِيٍّ، وعائِشَةَ، وأَبِي هُرَيْرَةَ، وجَابِرٍ، وأَبِي أَيُّوبَ، وأَبِي الدَّرْدَاءِ، وأَبِي رافِعٍ، وابْنِ عُمَرَ، وأَبِي بَكْرَةَ [أَيْضًا].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الأضاحي، باب التكبير عند الذبح، ح:٥٥٦٥ ومسلم، ح:١٩٦٦ عن قتيبة به * وفي الباب عن علي [يأتي:١٤٩٥] وعائشة [أبو داود، ح:٣١٢٢] وأبي هريرة [أبو داود، ح:٣١٢٢] وأبي أيوب [لم أجده] وجابر [أبو داود، ح:٢٧٩٥]

وأبي الدرداء [أحمد: ٥/١٩٦] وأبي رافع [أحمد: ٦/٦٦] وابن عمر [لم أجده] وأبي بكرة [يأتي: ١٥٢٠].

Comments:

This narration shows the way the sacrifice is carried out. Lay the animal of sacrifice on your left facing the *Ka'bah*, put your right leg on its thighs and hold the mouth tightly to keep the throat tight, and slaughter with the right hand mentioning the Name of Allāh aloud, that is " In the Name of Allāh, Allāh is Greatest" Remember that the knife used for slaughtering must be very sharp.

Chapter 3. What Has Been Related About Slaughtering (Offering Sacrifices) On Behalf Of The Deceased

(المعجم ٣) - [بَابُ مَا جَاءَ فِي الْأُضْحِيَةِ، عَنِ الْمَيِّتِ] (التحفة ٣)

1495. Hanash narrrated that 'Alī used to slaughter two male sheep, one for the Prophet ﷺ and the other for himself. When this was mentioned to him, he said: "He ordered me to" – meaning the Prophet ﷺ – "so I will never leave it." (*Da'īf*)

[Abū 'Eīsā said:] This *Hadīth* is *Gharīb*, we do not know of it except from the narration of Sharīk.

Some of the people of knowledge have permitted slaughtering on behalf of the deceased, and some of them did not think that one could slaughter on their behalf. 'Abdullāh bin Al-Mubārak said: "To me it is recommended that one give in charity on their behalf and not slaughter on their behalf. And if he were to slaughter, then he does not eat any of it, but gives it all in charity." [Muhammad said: "Alī bin Al-Madīnī said: 'It has been reported by other than Sharīk.'"

I asked him: "What is Abul-Hasnā's name?" But he did not know it. Muslim said: "His name is Al-Hasan."]

١٤٩٥ - حَدَّثَنَا مُحَمَّدُ بْنُ عُبَيْدٍ الْمُحَارِبِيُّ الْكُوفِيُّ: حَدَّثَنَا شَرِيكٌ عَنْ أَبِي الْحَسْنَاءِ، عَنِ الْحَكَمِ، عَنْ حَنَشٍ، عَنْ عَلِيٍّ: أَنَّهُ كَانَ يُضَحِّي بِكَبْشَيْنِ، أَحَدُهُمَا عَنِ النَّبِيِّ ﷺ، والآخَرُ عَنْ نَفْسِهِ، فَقِيلَ لَهُ، فَقَالَ: أَمَرَنِي بِهِ - يَعْنِي النَّبِيَّ ﷺ - فَلَا أَدَعُهُ أَبَدًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ شَرِيكٍ.

وقَدْ رَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ أَنْ يُضَحَّى عَنِ الْمَيِّتِ، ولَمْ يَرَ بَعْضُهُمْ أَنْ يُضَحَّى عَنْهُ. وقَالَ عَبْدُ اللهِ بْنُ الْمُبَارَكِ: أَحَبُّ إِلَيَّ أَنْ يُتَصَدَّقَ عَنْهُ ولَا يُضَحَّى عَنْهُ، وإِنْ ضَحَّى فَلَا يَأْكُلْ مِنْهَا شَيْئًا، ويَتَصَدَّق بِهَا كُلِّهَا. [قَالَ مُحَمَّدٌ: قَالَ عَلِيُّ بْنُ الْمَدِينِيِّ: وقَدْ رَوَاهُ غَيْرُ شَرِيكٍ قُلْتُ لَهُ: أَبُو الْحَسْنَاءِ مَا اسْمُهُ؟ فَلَمْ يَعْرِفْهُ. قَالَ مُسْلِمٌ: اسْمُهُ الْحَسَنُ].

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الضحايا، باب الأضحية عن الميت، ح: ٢٧٩٠ من حديث شريك به وصححه الحاكم: ٤/ ٢٢٩، ٢٣٠ والذهبي، وقالا: "أبو الحسناء هو الحسن بن الحكم" قلت: لا، بل هو غيره وهو مجهول، والحكم بن قتيبة وشريك القاضي مدلسان وعنعنا.

Comments:

Sacrificing on behalf of a deceased person is not proven from any authentic narration. Since the Prophet ﷺ performed a sacrifice on behalf of the Muslim *Ummah*, and dead and alive, all are included in the *Ummah*, therefore, some people allow sacrificing on behalf of deceased people. It is also not proven that all of the meat of the sacrifice performed on behalf of the *Ummah* was given in charity, and distributed among the poor. (*Tuhfat Al-Ahwadhī* v. 2. p. 354.)

Chapter 4. (What Has Been Related About) What Is Recommended To Slaughter (As Sacrifice)

(المعجم ٤) - بَابُ [مَا جَاءَ فِي] مَا يُسْتَحَبُّ مِنَ الْأَضَاحِي (التحفة ٤)

1496. Abū Sa'eed Al-Khudrī narrated: "The Messenger of Allāh ﷺ slaughtered a horned male ram of fine pedigree, (around) his mouth was black, and his legs were black, and (around) his eyes was black."(***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh Gharīb*, we do not know of it except from the narration of Hafs bin Ghiyāth.

١٤٩٦ - حَدَّثَنَا أَبُو سَعِيدٍ الْأَشَجُّ: حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: ضَحَّى رَسُولُ اللهِ ﷺ بِكَبْشٍ أَقْرَنَ فَحِيلٍ، يَأْكُلُ فِي سَوَادٍ، وَيَمْشِي فِي سَوَادٍ، وَيَنْظُرُ فِي سَوَادٍ.

[قَالَ أَبُو عِيسَى]: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ حَفْصِ ابْنِ غِيَاثٍ.

تخريج: [حسن] وأخرجه النسائي: ٧/ ٢٢١، ح: ٤٣٩٥ (الضحايا، باب الكبش) عن الأشج، وأبو داود، ح: ٢٧٩٦ وابن ماجه، ح: ٣١٢٨ من حديث حفص بن غياث به وله شاهد في صحيح مسلم، ح: ١٩٦٧ وغيره وبه صح الحديث.

Comments:

It seems that some people think that a castrated male animal is not approved for sacrifice. This view is not correct. One authentic narration (Abū Dāwūd mentions two castrated rams).

Chapter 5. What Is Not Allowed For Slaughtering (As Sacrifice)

(المعجم ٥) - بَابُ مَا لَا يَجُوزُ مِنَ الْأَضَاحِي (التحفة ٥)

1497. Al-Barā' bin 'Āzib narrated a *Marfū'* narration (from the Prophet ﷺ), saying: "A crippled

١٤٩٧ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا جَرِيرُ [بْنِ حَازِمٍ] عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنْ

يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ سُلَيْمَانَ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ عُبَيْدِ بْنِ فَيْرُوزَ، عَنِ الْبَرَاءِ بْنِ عازِبٍ رَفَعَهُ قَالَ: «لَا يُضَحَّى بِالْعَرْجاءِ بَيِّنٌ ظَلْعُهَا، ولَا بالْعَوْرَاءِ بَيِّنٌ عَوَرُهَا، ولَا بِالْمَرِيضَةِ بَيِّنٌ مَرَضُهَا، ولَا بالْعَجْفَاءِ الَّتِي لَا تُنْقِي».

animal whose limp is obvious is not to be slaughtered as sacrifice, nor an animal with a bad eye whose blindness is obvious, nor a sick animal whose sickness is obvious, nor an emaciated animal that has no marrow (in its bones)." (*Ṣaḥīḥ*)

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا ابْنُ أَبِي زائِدَةَ: حَدَّثَنَا شُعْبَةُ عَنْ سُلَيْمَانَ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ عُبَيْدِ ابْنِ فَيْرُوزَ، عَنِ الْبَرَاءِ [بْنِ عَازِبٍ] عَنِ النَّبِيِّ ﷺ نَحْوَهُ بِمَعْنَاهُ.

(Another chain) from the Prophet ﷺ with similar meaning.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عُبَيْدِ بْنِ فَيْرُوزَ عَنِ الْبَرَاءِ. والْعَمَلُ عَلَى هٰذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, we do not know of it except through the narration of 'Ubaid bin Fairūz from Al-Barā'. This *Ḥadīth* is acted upon according to people of knowledge.

تخريج: [صحيح] وأخرجه أبو داود، الضحايا، باب ما يكره من الضحايا، ح:٢٨٠٢ وابن ماجه، ح:٣١٤٤ والنسائي، ح:٤٣٧٦ من حديث سليمان به وصححه ابن خزيمة، ح:٢٩١٢ وابن حبان، ح:١٠٤٦، ١٠٤٧ وابن الجارود، ح:٤٨١،٩٠٧، والحاكم:١/٤٦٧، ٤٦٨ والذهبي وغيرهم.

Comments:

Four defects have been mentioned in this narration making any animal that has any of these defects unlawful for sacrifice. All the people of knowledge agree on this point. Actually the sacrifice is a demonstration of love and thanks to Allāh from His slave, that He made the animal under his control, therefore, a healthy and admirable animal should be selected for sacrifice.

Chapter 6. What Is Disliked For Slaughtering (In Sacrifice)

(المعجم ٦) - بَابُ مَا يُكْرَهُ مِنَ الْأَضَاحِي (التحفة ٦)

١٤٩٨ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْحُلْوَانِيُّ: حَدَّثَنَا يَزِيدُ بْنُ هارُونَ: حَدَّثَنَا شَرِيكُ بْنُ عَبْدِ اللهِ عَنْ أَبِي إِسْحَاقَ، عَنْ شُرَيْحِ بْنِ النُّعْمَانِ [الصَّائِدِيِّ وَهُوَ الْهَمْدَانِيُّ] عَنْ عَلِيٍّ [بْنِ أَبِي طَالِبٍ] قَالَ: أَمَرَنَا رَسُولُ

1498. 'Alī bin Abī Ṭālib said: "The Messenger of Allāh ﷺ ordered that we check the eyes and ears, and not to slaughter the *Muqābalah*, nor the *Mudābarah*, nor the *Sharqā'*, nor the *Kharqā*'" (*Ḍa'īf*)

(Another chain) from 'Ālī, from

الله ﷺ أَنْ نَسْتَشْرِفَ الْعَيْنَ وَالأُذُنَ، وأَنْ لَا نُضَحِّي بِمُقَابَلَةٍ ولَا مُدَابَرَةٍ ولَا شَرْقَاءَ ولَا خَرْقَاءَ.

حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ: حَدَّثَنَا عُبَيْدُ اللهِ ابْنُ مُوسَى: حَدَّثَنَا إِسْرَائِيلُ عَنْ أَبِي إِسْحَاقَ، عَنْ شُرَيْحِ بْنِ النُّعْمَانِ، عَنْ عَلِيٍّ عَنِ النَّبِيِّ ﷺ مِثْلَهُ وزَادَ قَالَ: الْمُقَابَلَةُ: مَا قُطِعَ طَرَفُ أُذُنِهَا. والْمُدَابَرَةُ: مَا قُطِعَ مِنْ جانِبِ الأُذُنِ. والشَّرْقَاءُ: الْمَشْقُوقَةُ. والْخَرْقَاءُ: الْمَثْقُوبَةُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ أَبُو عِيسَى:] وشُرَيْحُ بْنُ النُّعْمَانِ الصَّائِدِيُّ [هُوَ] كُوفِيٌّ، وشُرَيْحُ بْنُ الْحَارِثِ الْكِنْدِيُّ الْكُوفِيُّ الْقَاضِي يُكْنَى أَبَا أُمَيَّةَ، وشُرَيْحُ بْنُ هَانِئٍ كُوفِيٌّ وهانِئٌ لَهُ صُحْبَةٌ وكُلُّهُمْ مِنْ أَصْحَابِ عَلِيٍّ فِي عَصْرٍ واحِدٍ [قَدْ رُوِيَ عَنْ عَلِيٍّ وَكُلُّهُمْ مِنْ أَصْحَابِ عَلِيٍّ قَوْلُهُ: أَنْ نَسْتَشْرِفَ أَيْ: أَنْ نَنْظُرَ صَحِيحًا].

the Prophet ﷺ and it is similar, but he added: "The *Muqābalah* is the one whose ears have been severed, the *Mudābarah* is the one with the sides of its ears cut off, and the <u>Sh</u>*arqā'* is one with its ears split, and the <u>Kh</u>*arqā'* is the one whose ears have a hole pierced through them."

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[Abū 'Eīsā said:] Shuraiḥ bin An-Nu'mān Aṣ-Ṣā'idī is from Al-Kūfah [and he is one of the companions of 'Alī]. Shuraiḥ bin Al-Kindī Al-Kūfī Al-Qāḍī's *Kunyah* is Abū Ummayyah, [and he reported from 'Alī]. Shuraiḥ bin Hāni' is from Al-Kūfah, and Hāni' was a Companion (of the Prophet ﷺ), while all of them are among the companions of 'Alī, living during the same era.

[And his saying: "that we check" means to look and see if they are normal.]

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، أيضًا، ح:٢٨٠٤ وابن ماجه، ح:٣١٤٢ والنسائي، ح:٤٣٧٧ من حديث أبي إسحاق السبيعي به والسند معلل ولبعضه شاهد حسن، يأتي:١٥٠٣ والحديث صححه الحاكم:٤/ ٢٢٤ والذهبي * حديث عبيدالله بن موسى رواه الدارمي: ٢/ ٧٧، ح:١٩٥٨ عنه.

Comments:

Sacrifice of a defective animal is unlawful and the selection of an animal with mutilated ears or with broken a leg etc., is not approved. There is a difference of opinion on shortened ears (See for details *Al-Mughnī* v. 13. p.370.)

Chapter 7. What Has Been Related About The *Jadha'*[1] Among Sheep For Slaughtering

(المعجم ٧) - بَابُ [مَا جَاءَ] فِي الْجَذَعِ مِنَ الضَّأْنِ فِي الْأَضَاحِي (التحفة ٧)

1499. Abū Kibāsh narrated: "I brought a *Jadha'* sheep to Al-Madīnah (for sale) but it remained with me. I saw Abū Hurairah and I asked him about it, so he said: 'I heard the Messenger of Allāh ﷺ saying: "The best male" – or – "female *Udhiyah* is that from the *Jadha'* sheep." He said: "So the people took note of that (they became interested in buying)." **(*Da'īf*)**

[He said:] There are narrations on this topic from Ibn 'Abbās, Umm Bilāl bin Hilāl from her father, Jābir, 'Uqbah bin 'Āmir, and a man from the Companions of the Prophet ﷺ.

[Abū 'Eīsā said:] The *Hadīth* of Abū Hurairah is a [*Hasan*] *Gharīb Hadīth*. This has been reported from Abū Hurairah in *Mawqūf* form.

['Uthmān bin Wāqid is Ibn Muhammad bin Ziyād bin 'Abdullāh bin 'Umar bin Al-Khattāb].

This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. The *Jadha'* sheep is acceptable for *Udhiyah*.

١٤٩٩ - حَدَّثَنَا يُوسُفُ بْنُ عِيسَى: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا عُثْمَانُ بْنُ وَاقِدٍ عَنْ كِدَامِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي كِبَاشٍ قَالَ: جَلَبْتُ غَنَمًا جَذَعًا إِلَى الْمَدِينَةِ فَكَسَدَتْ عَلَيَّ، فَلَقِيتُ أَبَا هُرَيْرَةَ، فَسَأَلْتُهُ، فَقَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «نِعْمَ أَوْ نِعْمَتِ الْأُضْحِيَةُ الْجَذَعُ مِنَ الضَّأْنِ»، قَالَ: فَانْتَهَبَهُ النَّاسُ.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وأُمِّ بِلَالِ بِنْتِ هِلَالٍ عَنْ أَبِيهَا، وجَابِرٍ، وعُقْبَةَ ابْنِ عَامِرٍ، ورَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

[قَالَ أَبُو عِيسَى:] وحَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ [حَسَنٌ] غَرِيبٌ. وقَدْ رُوِيَ هٰذَا عَنْ أَبِي هُرَيْرَةَ مَوْقُوفًا [وعُثْمَانُ بْنُ واقِدٍ هُوَ ابْنُ مُحَمَّدِ بْنِ زِيَاد بْنِ عَبْدِاللهِ بْنِ عُمَرَ بْنِ الْخَطَّابِ]، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: أَنَّ الْجَذَعَ مِنَ الضَّأْنِ يُجْزِىءُ فِي الْأُضْحِيَةِ.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ٢/ ٤٤٤ عن وكيع به * كدام وأبوكباش، وثقهما الترمذي وحده فهما مجهولا الحال * وفي الباب عن ابن عباس [الطبراني في الكبير: ٧/ ٢٠٥، ح: ١١٥٠٤ وح: ١١٥٦١] وأم بلال بنت هلال عن أبيها [ابن ماجه، ح: ٣١٣٩] وجابر [مسلم، ح: ١٩٦٣] وعقبة بن عامر [يأتي: ١٥٠٠] ورجل من أصحاب النبي ﷺ [أبو داود، ح: ٢٧٩٩].

[1] See the explanation after no. 1500, and also no. 621.

Comments:

The *Jadha'* sheep is acceptable for sacrifice but the *Thaniyyah* is better. In the view of most of the people, one year and above is best for the sacrifice, but a healthy lamb of six months is acceptable.

١٥٠٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ أَبِي الْخَيْرِ، عَنْ عُقْبَةَ بْنِ عَامِرٍ: أَنَّ رَسُولَ اللهِ ﷺ أَعْطَاهُ غَنَمًا يُقَسِّمُهَا عَلَى أَصْحَابِهِ ضَحَايَا، فَبَقِيَ عَتُودٌ أَوْ جَدْيٌ فَذَكَرْتُ ذٰلِكَ لِرَسُولِ اللهِ ﷺ فَقَالَ: «ضَحِّ بِهِ أَنْتَ».

قَالَ وَكِيعٌ: الْجَذَعُ مِنَ الضَّأْنِ يَكُونُ ابْنَ سَبْعَةٍ أَوْ سِتَّةِ أَشْهُرٍ. [قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَقَدْ رُوِيَ مِنْ غَيْرِ هٰذَا الْوَجْهِ عَنْ عُقْبَةَ بْنِ عامِرٍ أَنَّهُ قَالَ: قَسَمَ النَّبِيُّ ﷺ ضَحَايَا فَبَقِيَتْ جَذَعَةٌ فَسَأَلْتُ النَّبِيَّ ﷺ فَقَالَ: «ضَحِّ بِهَا أَنْتَ».

حَدَّثَنَا بِذٰلِكَ مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَزِيدُ ابْنُ هَارُونَ وأَبُو دَاوُدَ قَالَا: حَدَّثَنَا هِشَامٌ الدَّسْتَوائِيُّ عَنْ يَحْيى بْنِ أَبِي كَثِيرٍ، عَنْ بَعْجَةَ ابْنِ عَبْدِ اللهِ بْنِ بَدْرٍ، عَنْ عُقْبَةَ بْنِ عامِرٍ عَنِ النَّبِيِّ ﷺ بِهٰذَا الْحَدِيثِ.

1500. 'Uqbah bin 'Āmir narrated that the Messenger of Allāh ﷺ gave him sheep to distribute among his Companions as a sacrifice. "There remained a young male kid or a young billy goat, so I mentioned that to the Messenger of Allāh ﷺ and he said: 'Sacrifice it for yourself.'" (***Ṣaḥīḥ***)

Wakī' said: "The *Jadha'* among sheep is seven or six months." [Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Through routes other than this, it has been reported that 'Uqbah bin 'Āmir said: "The Prophet ﷺ distributed the sacrificial animals and I was left with a *Jadha'*, so I asked the Prophet ﷺ about it and he said: 'Sacrifice it for yourself.'"

(Another chain) with this *Ḥadīth*.

تخريج: متفق عليه، وأخرجه البخاري، الشركة، باب قسمة الغنم والعدل فيها، ح:٢٥٠٠ ومسلم، ح:١٩٦٥ عن قتيبة به ورواه مسلم، ح:١٦/١٩٦٥ من حديث يزيد بن هارون، والبخاري، ح:٥٥٤٧ من حديث هشام الدستوائي به وهو في مسند أبي داود الطيالسي، ح:١٠٠٢.

Comments:

'Atood' is one year old healthy goat, and in view of Ibn Batāl, five months old is *Atood*. *'Jaddy'* is a one year old male goat.

Chapter 8. [What Has Been Related About] Sharing In The *Udhiyah* (Sacrifice)

(المعجم ٨) - بَابُ [مَا جَاءَ] فِي الاشْتِرَاكِ فِي الْأُضْحِيَةِ (التحفة ٨)

1501. Ibn 'Abbās narrated: "We were with the Messenger of Allāh ﷺ on a journey when the (Day of) *Adha* came, so we shared seven for a cow and ten for a camel." (***Hasan***)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Al-Ashadd Al-Aslamī, from his father, from his grandfather, and Abū Ayyūb.

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Abbās is a *Hasan Gharīb Hadīth*, we do not know of it except through the narration of Al-Fadl bin Mūsā.

١٥٠١ - حَدَّثَنَا أَبُو عَمَّارٍ الْحُسَيْنُ بْنُ حُرَيْثٍ: حَدَّثَنَا الْفَضْلُ بْنُ مُوسَى عَنِ الْحُسَيْنِ ابْنِ واقِدٍ، عَنْ عِلْبَاءَ بْنِ أَحْمَرَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: كُنَّا مَعَ رَسُولِ اللهِ ﷺ في سَفَرٍ فَحَضَرَ الْأَضْحَى، فَاشْتَرَكْنَا في الْبَقَرَةِ سَبْعَةً وفي البَعِيرِ عَشْرَةً.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي الْأَشَدِّ الْأَسْلَمِي، عَنْ أَبِيه، عَنْ جَدِّهِ، وأَبِي أَيُّوبَ.

[قَالَ أَبُو عِيسَى:] وحَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ الْفَضْلِ بْنِ مُوسَى.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، الأضاحي، باب عن كم تجزیء البدنة والبقرة، ح: ٣١٣١ والنسائي، ح: ٤٣٩٧ من حديث الفضل بن موسى به * وفي الباب عن أبي الأشد السلمي عن أبيه عن جده [أحمد: ٣/ ٤٢٤] وأبي أيوب [يأتي: ١٥٠٥].

1502. Jābir narrated: "We performed the *Nahr* (Sacrifice) with the Messenger of Allāh ﷺ at Al-Hudaibiyyah: A camel for seven (persons) and a cow for seven (persons)." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Sufyān Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, Ahmad, and Ishāq. Ishāq said: "A camel is acceptable for ten (persons) as well." And he used the *Hadīth* of Ibn 'Abbās as proof.

١٥٠٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مالِكُ بْنُ أَنَسٍ عَنْ أَبِي الزُّبَيْرِ، عَنْ جابِرٍ قَالَ: نَحَرْنَا مَعَ رَسُولِ اللهِ ﷺ بالحُدَيْبِيَةِ البدَنَةَ عَنْ سَبْعَةٍ والْبَقَرَةَ عَنْ سَبْعَةٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِم، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، وابْنِ الْمُبَارَكِ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ. وقَالَ إِسْحَاقُ: يُجْزِىءُ أَيْضًا الْبَعِيرُ عَنْ عَشْرَةٍ. واحْتَجَّ بِحَدِيثِ ابْنِ عَبَّاسٍ.

تخريج: وأخرجه مسلم، الحج، باب جواز الاشتراك في الهدي ... إلخ، ح:١٣١٨ عن قتيبة به وهو في الموطأ:٢/٤٨٦ (يحيى).

Comments:

According to the view of most of the people of knowledge, seven persons can share a camel or cow for sacrifice. All Four *A'immah* support this point of view.

Chapter 9. Regarding A Sacrificial Animal With A Stump Horn Or Ear

(المعجم ٩) [بَابٌ: فِي الضَّحِيَّةِ بِعَضْبَاءِ الْقَرْنِ وَالأُذُنِ] (التحفة ٩)

1503. Ḥujayyah bin 'Adī narrated, " 'Alī said: 'A cow is for seven.' I said: 'And if it is gives birth?' He said: 'Then slaughter its offspring with it.' I said: 'What if it is lame?' He said: 'When it has reached the place of the ritual.'[1] I said: 'What if it has a broken horn?' He said: 'There is no harm. We were ordered' – or – 'The Messenger of Allāh ﷺ ordered us, to check the two eyes and the two ears.'" (***Ḥasan***)

[Abū 'Eīsā said:] This Ḥadīth is *Ḥasan Ṣaḥīḥ*.

[Abū 'Eīsā said:] Sufyān Ath-Thawrī has reported it from Salamah bin Kuhail.

١٥٠٣ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: أَخْبَرَنَا شَرِيكٌ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، عَنْ حُجَيَّةَ بْنِ عَدِيٍّ، عَنْ عَلِيٍّ قَالَ: الْبَقَرَةُ عَنْ سَبْعَةٍ، قُلْتُ: فَإِنْ وَلَدَتْ؟ قَالَ: اذْبَحْ وَلَدَهَا مَعَهَا. قُلْتُ: فَالْعَرْجَاءُ. قَالَ: إِذَا بَلَغَتِ الْمَنْسِكَ. قُلْتُ: فَمَكْسُورَةُ الْقَرْنِ. فَقَالَ: لَا بَأْسَ، أُمِرْنَا أَوْ أَمَرَنَا رَسُولُ اللهِ ﷺ أَنْ نَسْتَشْرِفَ الْعَيْنَيْنِ والأُذُنَيْنِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ أَبُو عِيسَى:] وقَدْ رَوَاهُ سُفْيَانُ الثَّوْرِيُّ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ.

تخريج: [حسن] وأخرجه ابن ماجه، الأضاحي، باب ما يكره أن يضحى به، ح:٣١٤٣ والنسائي:٧/٢١٧، ح:٤٣٨١ من حديث سلمة بن كهيل به وصححه الحاكم.

Comments:

If an animal for sacrifice is pregnant and gives birth to a calf, it should be slaughtered with the animal. Imām Shāfi'ī supports this view, but in the view of Imām Abū Ḥanīfah, the calf can be given alive to some needy and poor person. If it is slaughtered with the animal, atonement will be paid for it. (*Al-Mughnī* v. 13 p. 375.)

1504. 'Alī narrated: "The Messenger of Allāh ﷺ prohibited that an animal with an *A'ḍab*

١٥٠٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدَةُ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ جُرَيِّ بْنِ كُلَيْبٍ

[1] Or, the place of its slaughtering, meaning; then it may be slaughtered.

النَّهْدِيِّ، عَنْ عَلِيٍّ قَالَ: نَهَى رَسُولُ اللهِ ﷺ أَنْ يُضَحَّى بِأَعْضَبِ القَرْنِ والأُذُنِ. قَالَ قَتَادَةُ: فَذَكَرْتُ ذٰلِكَ لِسَعِيدِ بْنِ المُسَيَّبِ فَقَالَ: الْعَضَبُ مَا بَلَغَ النِّصْفَ فَمَا فَوْقَ ذٰلِكَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

(stump) horn or ear should be slaughtered as a sacrifice." Qatādah (one of the narrators) said: "So I mentioned this to Sa'eed bin Al-Musayyab and he said: 'The *A'ḍab* is that which equals half or more than that.'" (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth is Ḥasan Ṣaḥīḥ.*

تخريج: [**حسن**] وأخرجه ابن ماجه، أيضًا، ح:٣١٤٥ من حديث سعيد بن أبي عروبة به ورواه شعبة عن قتادة به عند النسائي، ح:٤٣٨٢ والبزار في البحر الزخار:٣/٩٦، ح:٨٧٦ وجري ابن كليب: حسن الحديث، على الراجح.

Comments:

According to 'Allāmah Ibn Qudāmah *A'ḍab* means an animal of which more than half of its horn or ear is amputated.

(المعجم ١٠) - بَابُ مَا جَاءَ أَنَّ الشَّاةَ الْوَاحِدَةَ تُجْزِىءُ، عَنْ أَهْلِ الْبَيْتِ (التحفة ١٠)

Chapter 10. What Has Been Related About: One Sheep Will Suffice For The People In The Household

١٥٠٥ - حَدَّثَنَا يَحْيى بْنُ مُوسَى: حَدَّثَنَا أَبُو بَكْرٍ الْحَنَفِيُّ: حَدَّثَنَا الضَّحَّاكُ بْنُ عُثْمَانَ: حَدَّثَنِي عُمَارَةُ بْنُ عَبْدِ اللهِ قَالَ: سَمِعْتُ عَطَاءَ ابْنَ يَسَارٍ يَقُولُ: سَأَلْتُ أَبَا أَيُّوبَ [الأَنْصَارِيَّ]: كَيْفَ كانَتِ الضَّحَايَا عَلَى عَهْدِ رَسُولِ اللهِ ﷺ. فَقَالَ: كانَ الرَّجُلُ يُضَحِّي بِالشَّاةِ عَنْهُ وعَنْ أَهْلِ بَيْتِهِ فَيَأْكُلُونَ ويُطْعِمُونَ حَتَّى تَبَاهَى النَّاسُ فَصَارَتْ كَمَا تَرَى.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وعُمَارَةُ بْنُ عَبْدِ اللهِ هُوَ [مَدَنِيٌّ]. وقَدْ رَوَى عَنْهُ مالِكُ بْنُ أَنَسٍ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ، واحْتَجَّا بِحَدِيثِ النَّبِيِّ ﷺ أَنَّهُ

1505. 'Aṭā' bin Yasār narrated: "I asked Abū Ayyūb [Al-Anṣārī] how the slaughtering was done during the time of the Messenger of Allāh ﷺ.' He said: 'A man would sacrifice a sheep for himself and the people in his household. They would eat from it and feed others, until the people (later) would boast about it and it became as you see now." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. 'Umārah bin 'Abdullāh (one of the narrators) is from Al-Madīnah. Mālik bin Anas reported from him.

This is acted upon according to some of the people of knowledge. It is the view of Aḥmad and Isḥāq.

ضَحَّى بِكَبْشٍ فَقَالَ: «هٰذَا عَمَّنْ لَمْ يُضَحِّ مِنْ أُمَّتِي».

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَا تُجْزِىءُ الشَّاةُ إِلَّا عَنْ نَفْسٍ واحِدَةٍ. وهُوَ قَوْلُ عَبْدِ اللهِ بْنِ الْمُبَارَكِ وغَيْرِهِ مِنْ أَهْلِ الْعِلْمِ.

They used the *Hadīth* of the Prophet ﷺ as proof, which says that he would offer a horned sheep as a sacrifice and say: "This is for whoever did not offer a sacrifice in my *Ummah*."

Some of the people of knowledge said that one sheep is not accepted for anyone but himself alone. This is the view of 'Abdullāh bin Al-Mubārak and others among the people of knowledge.

تخريج: [**صحيح**] وأخرجه ابن ماجه، الأضاحي، باب: ضحى شاةً عن أهله، ح:٣١٤٧ من حديث الضحاك بن عثمان به وحديث مالك في الموطأ (النسخة الباكستانية) ص:٤٩٧ والبيهقي: ٩/ ٢٦٨.

Comments:

The Prophet ﷺ used to sacrifice a lamb on behalf of his family.

(المعجم ١١) - بَابُ [الدَّلِيلِ عَلَى أَنَّ الْأُضْحِيَةَ سُنَّةٌ] (التحفة ١١)

Chapter 11. The Evidence That The *Udhiyah* (Sacrifice) Is A *Sunnah*

١٥٠٦ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ: أَخْبَرَنَا حَجَّاجُ بْنُ أَرْطَاةَ عَنْ جَبَلَةَ بْنِ سُحَيْمٍ: أَنَّ رَجُلًا سَأَلَ ابْنَ عُمَرَ عَنِ الْأُضْحِيَةِ أَوَاجِبَةٌ هِيَ؟ فَقَالَ: ضَحَّى رَسُولُ اللهِ ﷺ والْمُسْلِمُونَ. فَأَعادَهَا عَلَيْهِ فَقَالَ: أَتَعْقِلُ، ضَحَّى رَسُولُ اللهِ ﷺ والْمُسْلِمُونَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ: أَنَّ الْأُضْحِيَةَ لَيْسَتْ بِوَاجِبَةٍ ولَكِنَّهَا سُنَّةٌ مِنْ سُنَنِ النَّبِيِّ ﷺ يُسْتَحَبُّ أَنْ يُعْمَلَ بِهَا، وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، وابْنِ الْمُبَارَكِ.

1506. Jabalah bin Suhaim narrated that a man asked Ibn 'Umar about the *Udhiyah*, "Is it obligatory?" So he said: "The Messenger of Allāh ﷺ performed the *Udhiyah* as did the Muslims." He repeated the question. So he said: "Do you understand? The Messenger of Allāh ﷺ slaughtered as did the Muslims." (***Da'īf***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. This is acted upon according to the people of knowledge, that the *Udhiyah* is not obligatory, but it is a *Sunnah* among the *Sunan* of the Prophet ﷺ which it is recommended to perform. This is the view of Sufyān Ath-Thawrī and Ibn al-Mubārak.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الأضاحي، باب الأضاحي واجبة هي أم لا؟، ح:٣١٢٤ب من حديث حجاج بن أرطاة به، وهو ضعيف مدلس وعنعن والحديث حسن لغيره.

Comments:

The Prophet ﷺ regularly offered the sacrifice throughout his life, and his Companions followed him. One who is poor and has nothing is exempt from offering a sacrifice.

1507. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ stayed in Al-Madīnah for ten years performing the *Udḥiyah*." ***(Ḍa'īf)***
[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

١٥٠٧ - **حَدَّثَنَا** أَحْمَدُ بْنُ مَنِيعٍ وهَنَّادٌ، قَالَا: حَدَّثَنَا ابْنُ أَبِي زائدةَ عَنْ حَجَّاجِ بْنِ أَرْطَاةَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: أَقَامَ رَسُولُ اللهِ ﷺ بِالْمَدِينَةِ عَشْرَ سِنِينَ يُضَحِّي.
[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: **[إسناده ضعيف]** وأخرجه أحمد:٢/٣٨ من حديث ابن أبي زائدة به، وانظر الحديث السابق لعلة.

Comments:

The regular practice of the Prophet ﷺ of offering a sacrifice every year is a model for every Muslim. Continuity in practice does not make it an obligation, but proves its significance.

Chapter 12. (What Has Been Related) About Slaughtering After The *Ṣalāt*

(المعجم ١٢) - بَابُ [مَا جَاءَ] فِي الذَّبْحِ بَعْدَ الصَّلَاةِ (التحفة ١٢)

1508. Al-Barā' bin 'Āzib narrated: "The Messenger of Allāh ﷺ delivered a semron to us on the Day of *Naḥr* and he said: 'None of you should slaughter until he performs the *Ṣalāt*.'" He said: "So my maternal uncle stood and said: 'O Messenger of Allāh, this is the day in which meat is disliked, and I hastened my sacrifice to feed my family and the people of my dwellings' – or – 'my neighbours.' He said: 'Repeat your slaughter with another.' He said: 'O Messenger of Allāh ﷺ I have a she-kid that has better meat than

١٥٠٨ - **حَدَّثَنَا** عَلِيُّ بْنُ حُجْرٍ: أَخْبَرَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنْ دَاوُدَ بْنِ أَبِي هِنْدٍ، عَنِ الشَّعْبِيِّ، عَنِ الْبَرَاءِ بْنِ عَازِبٍ قَالَ: خَطَبَنَا رَسُولُ اللهِ ﷺ فِي يَوْمِ نَحْرٍ فَقَالَ: «لَا يَذْبَحَنَّ أَحَدُكُمْ حَتَّى يُصَلِّيَ». قَالَ: فَقَامَ خَالِي فَقَالَ: يَا رَسُولَ اللهِ، هٰذَا يَوْمٌ اللَّحْمُ فِيهِ مَكْرُوهٌ، وإِنِّي عَجَّلْتُ نَسِيكَتِي لِأُطْعِمَ أَهْلِي وأَهْلَ دَارِي أَوْ جِيرانِي. قَالَ: «فَأَعِدْ ذَبْحًا بِآخَرَ». فَقَالَ: يَا رَسُولَ اللهِ، عِنْدِي عَنَاقُ لَبَنٍ هِيَ خَيْرٌ مِنْ شاتَيْ لَحْمٍ، أَفَأَذْبَحُهَا؟ قَالَ: «نَعَمْ، وهُوَ خَيْرٌ فَسَيَكْفِيكَ

وَلَا تُجْزِىءُ جَذَعَةٌ بَعْدَكَ».

[قَالَ:] وفِي الْبَابِ عَنْ جابِرٍ، وجُنْدُبٍ، وأَنَسٍ، وعُوَيْمِرِ بْنِ أَشْقَرَ، وابْنِ عُمَرَ، وأَبِي زَيْدٍ الْأَنْصَارِيِّ.

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ [أَكْثَرِ] أَهْلِ الْعِلْمِ أَنْ لَا يُضَحِّيَ بِالْمِصْرِ حَتَّى يُصَلِّيَ الْإِمَامُ.

وقَدْ رَخَّصَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ لِأَهْلِ الْقُرَى فِي الذَّبْحِ إِذا طَلَعَ الفَجْرُ، وهُوَ قَوْلُ ابْنِ الْمُبَارَكِ.

[قَالَ أَبُو عِيسَى]: وقَدْ أَجْمَعَ أَهْلُ الْعِلْمِ: أَنْ لَا يُجْزِىءُ الْجَذَعُ مِنَ المَعْزِ، وقَالُوا: إِنَّمَا يُجْزِىءُ الْجَذَعُ مِنَ الضَّأْنِ.

my sheep, should I slaughter it?' He said: 'Yes, and it is better and it will suffice for you, but a *Jadha'* will not be accepted after you.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Jundab, Anas, 'Uwaimir bin Ashqar, Ibn 'Umar, and Abū Zaid Al-Anṣārī.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to [most of] the people of knowledge, in that there is to be no sacrifices in the city until the *Imām* has performed the *Ṣalāt*.

There are those among the people of knowledge who made an exception of allowance for the inhabitants of a town, that they could slaughter when *Fajr* began. This is the view of Ibn Al-Mubārak.

[Abū 'Eīsā said:] The people of knowledge have agreed that the *Jadha'* among goats would not be acceptable, and they said that only the *Jadha'* among sheep would be acceptable.

تخريج: متفق عليه، أخرجه مسلم، الأضاحي، باب وقتها، ح:١٩٦١ من حديث داود بن أبي هند والبخاري، ح:٩٥٥ من حديث الشعبي به * وفي الباب عن جابر [مسلم، ح:١٩٦٤] وجندب [البخاري، ح:٩٨٥ ومسلم، ح:١٩٦٠] وأنس [البخاري، ح:٩٥٤ ومسلم، ح:١٩٦٢] وعويمر بن أشقر [ابن ماجه، ح:٣١٥٣] وابن عمر [لعله يشير إلى حديث البخاري، ح:٩٨٢] وأبي زيد الأنصاري [ابن ماجه، ح:٣١٥٤].

Comments:

Since Abū Burdah bin Niyār had already slaughtered his animal of sacrifice, he was allowed to sacrifice a well nourished suckling kid lamb instead. Similarly 'Uqbah bin 'Āmir was also allowed, but this permission was not for all times and for all people. Regarding the time of sacrifice; there is no difference between the people living in towns and cities and the people living in rural areas.

Chapter 13. (What Has Been Related) About It Being Disliked To Eat From The Sacrificial Meat Beyond Three Days

(المعجم ١٣) - بَابُ [مَا جَاءَ] فِي كَرَاهِيَةِ أَكْلِ الأُضْحِيَةِ فَوْقَ ثَلَاثَةِ أَيَّامٍ (التحفة ١٣)

1509. Ibn 'Umar narrated that the Prophet ﷺ said: "None of you should eat from the meat of his sacrificial meat beyond three days." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Āishah and Anas.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Hasan Ṣaḥīḥ Ḥadīth*. The Prophet ﷺ only would prohibit that earlier, then he permitted it after that.

١٥٠٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا يَأْكُلُ أَحَدُكُم مِنْ لَحْمِ أُضْحِيَتِهِ فَوْقَ ثَلَاثَةِ أَيَّامٍ». [قَالَ:] وفِي الْبَابِ عَنْ عائِشَةَ وأَنسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وإِنَّمَا كانَ النَّهْيُ مِنَ النَّبِيِّ ﷺ مُتَقَدِّمًا ثُمَّ رَخَّصَ بَعْدَ ذٰلِكَ.

تخريج: وأخرجه مسلم، الأضاحي، باب بيان ما كان من النهي عن أكل الأضاحي بعد ثلاث ... إلخ، ح:١٩٧٠ عن قتيبة به * وفي الباب عن عائشة [مسلم، ح:١٩٧١ والبخاري، ح:٥٥٧٠ والترمذي، ح:١٥١١] وأنس [البيهقي: ٤/ ٧٧].

Chapter 14. (What Has Been Related) About The Permission To Eat From It Beyond Three Days

(المعجم ١٤) - بَابُ [مَا جَاءَ] فِي الرُّخْصَةِ فِي أَكْلِهَا بَعْدَ ثَلَاثٍ (التحفة ١٤)

1510. Sulaimān bin Buraidah narrated from his father that the Messenger of Allāh ﷺ said: "I used to prohibit you from (eating) the meat of the Sacrifice beyond three days so that those who have the ability would give to those who do not have it. So (now), eat as you like, feed others, and save from it." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn Mas'ūd, 'Āishah, Nubaishah, Abū Sa'eed, Qatādah bin An-Nu'mān, Anas, and Umm Salamah.

[Abū 'Eīsā said:] The *Ḥadīth* of

١٥١٠ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ ومَحْمُودُ ابْنُ غَيْلَانَ والْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ [وغَيْرُ واحِدٍ] قَالُوا: حَدَّثَنَا أَبُو عَاصِمٍ النَّبِيلُ: حَدَّثَنَا سُفْيَانُ [الثَّوْرِيُّ] عَنْ عَلْقَمَةَ بْنِ مَرْثَدٍ، عَنْ سُلَيْمَانَ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «كُنْتُ نَهَيْتُكُم عَنْ لُحُومِ الأَضَاحِيِّ فَوْقَ ثَلَاثٍ لِيَتَّسِعَ ذُو الطَّوْلِ عَلَى مَنْ لَا طَوْلَ لَهُ، فَكُلُوا ما بَدَا لَكُم وأَطْعِمُوا وادَّخِرُوا».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ، وعائِشَةَ، ونُبَيْشَةَ، وأَبِي سَعِيدٍ، وَقَتَادَةَ بْنِ النُّعْمَانِ، وأَنَسٍ، وأُمِّ سَلَمَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ بُرَيْدَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ.

(Sulaiman bin) Buraidah is a *Hasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others.

تخريج: وأخرجه مسلم، وأيضًا، ح:٩٧٧ بعد ١٩٧٥ من حديث سفيان الثوري به * وفي الباب عن ابن مسعود [أحمد:١/ ٤٥٢] وعائشة [يأتي:١٥١١] ونبيشة [أبو داود، ح:٢٨١٣] وأصله في صحيح مسلم، [ح:١١٤١] وأبي سعيد [مسلم، ح:١٩٧٣] وقتادة بن النعمان [البخاري، ح:٣٩٩٧] وأنس [البيهقي:٤/ ٧٧ وأحمد: ٣/ ٢٣٧، ٢٥٠] وأم سلمة [لم أجده].

Comments:

Eating and storing the meat of sacrifice for more than three days is allowed and lawful, because its prohibition was temporary and later it was abrogated.

١٥١١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو الأَحْوَصِ عَنْ أَبِي إِسْحَاقَ، عَنْ عَابِسِ بْنِ رَبِيعَةَ قَالَ: قُلْتُ لِأُمِّ الْمُؤْمِنِينَ: أَكَانَ رَسُولُ اللهِ ﷺ يَنْهَى عَنْ لُحُومِ الأَضَاحِيِّ؟ قَالَتْ: لَا ولٰكِنْ قَلَّ مَنْ كَانَ يُضَحِّي مِنَ النَّاسِ فَأَحَبَّ أَنْ يُطْعِمَ مَنْ لَمْ يَكُنْ يُضَحِّي، ولَقَدْ كُنَّا نَرْفَعُ الكُرَاعَ فَنَأْكُلُهُ بَعْدَ عَشْرَةِ أَيَّامٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ، وأُمُّ الْمُؤْمِنِينَ هِيَ عائِشَةُ زَوْجُ النَّبِيِّ ﷺ. وَقَدْ رُوِيَ عَنْهَا هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ.

1511. 'Ābis bin Rabī'ah narrated: "I said to the Mother of the Believers: 'Did the Messenger of Allāh ﷺ prohibit from the meat of the Sacrifice?' She said: 'No, but only a few people could slaughter, so he liked that they feed those who did not slaughter. (Later) we would store a leg to eat after ten days." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Hasan*] *Ṣaḥīḥ*. The Mother of the Believers is 'Āishah, the wife of the Prophet ﷺ. This *Ḥadīth* was reported from her through more than one route.

تخريج: وأخرجه البخاري، الأطعمة، باب ما كان السلف يدخرون في بيوتهم وأسفارهم من الطعام واللحم وغيره، ح:٥٤٢٣ ومسلم، ح:٢٣/٢٩٧٠ من حديث عابس بن ربيعة به نحو المعنى.

Comments:

Ummul-Mu'minīn 'Āishah explains that its purpose was to provide meat to those who were poor and needy, otherwise it is not prohibited to eat and store it after three days.

Chapter 15. (What Has Been Related) About The *Fara'* And The *'Atīrah*

(المعجم ١٥) - بَابُ [مَا جَاءَ] فِي الْفَرَعِ وَالْعَتِيرَةِ (التحفة ١٥)

1512. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "There is no *Fara'* nor *'Atīrah*." (*Ṣaḥīḥ*)

The *Fara'* is the first of the offspring that would be born to them, so they would slaughter it.

[He said:] There are narrations on this topic from Nushaibah, Mikhnaf bin Sulaim, [and Ibn Al-'Usharā' from his father].

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

The *'Atīrah* was an animal that they would slaughter during Rajab to honor the month of Rajab, since it was the first of the sacred months. The sacred months are Rajab, Dhul-Qa'dah, Dhul-Ḥijjah, and Al-Muḥarram. And the months of *Ḥajj* are Shawwāl, Dhul-Qa'dah, and the (first) ten (days) of Dhul-Ḥijjah. This is what was reported from some of the Companions of the Prophet ﷺ and others regarding the months of *Ḥajj*.

١٥١٢ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهرِيِّ، عَنِ [ابْنِ] الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا فَرَعَ ولَا عَتِيرَةَ» والْفَرَعُ أَوَّلُ النِّتَاجِ كانَ يُنْتَجُ لَهُمْ فَيَذْبَحُونَهُ.

[قَالَ:] وفِي الْبَابِ عَنْ نُبَيْشَةَ، ومِخْنَفِ ابْنِ سُلَيْمٍ، [وابْنِ الْعُشَرَاءِ، عَنْ أَبِيهِ].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

والعَتِيرَةُ: ذَبِيحَةٌ كَانُوا يَذْبَحُونَهَا فِي رَجَبٍ يُعَظِّمُونَ شَهْرَ رَجَبٍ، لِأَنَّهُ أَوَّلُ شَهْرٍ مِنْ أَشْهُرِ الْحُرُمِ. وأَشْهُرُ الْحُرُمِ: رَجَبٌ وَذُو الْقَعْدَةِ وذُو الْحِجَّةِ والْمُحَـرَّمُ. وأَشْهُرُ الْحَجِّ: شَوَّالٌ وذُو القَعْدَةِ وعَشْرٌ مِنْ ذِي الْحِجَّةِ. كَذٰلِكَ رُوِيَ عَنْ بَعْضِ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ فِي أَشْهُرِ الْحَجِّ.

تخريج: متفق عليه، وأخرجه مسلم، الأضاحي، باب الفرع والعتيرة، ح:١٩٧٦ من حديث عبدالرزاق والبخاري، ح:٥٤٧٣ من حديث معمر به وهو في مصنف عبدالرزاق:٤/ ٣٤١، ح:٧٩٩٨ * وفي الباب عن نبيشة [أبو داود، ح:٢٨٣٠] ومخنف بن سليم [يأتي:١٥١٨] وابن العشراء عن أبيه [تمام بن محمد الرازي في الفوائد:٣٣/ ٣٦].

Comments:

As there is no performance of *Ḥajj* after the tenth of Dhul-Ḥijjah, therefore, it has been ended here, whereas other rites related to *Ḥajj* are performed after the tenth of Dhul-Ḥijjah. The Prophet ﷺ said that *Al-Ḥajj* is reaching *'Arafāt*, and the ninth of Dhul-Ḥijjah is the Day of *'Arafāt*, which lasts till the *Fajr* prayer of the tenth of Dhul-Ḥijjah.

Chapter 16. What Has Been Related About The *'Aqīqah*

(المعجم ١٦) - بَابُ مَا جَاءَ فِي الْعَقِيقَةِ (التحفة ١٦)

1513. Yuṣuf bin Māhak narrated they entered upon Ḥafṣah bint 'Abdur-Raḥmān to ask her about the *'Aqīqah*. She informed them that 'Āishah had informed her, that the Messenger of Allāh ﷺ ordered them that for a boy, two sheep were sufficient, and for a girl one sheep. (***Hasan***)

[He said:] There are narrations on this topic from 'Alī, Umm Kurz, Buraidah, Samurah, Abū Hurairah, 'Abdullāh bin 'Amr, Anas, Salmān bin 'Āmir, and Ibn 'Abbās.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Āishah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Ḥafṣah is the daughter of 'Abdur-Raḥmān bin Abū Bakr Aṣ-Ṣiddīq.

١٥١٣ - حَدَّثَنَا يَحْيَى بْنُ خَلَفٍ [الْبَصْرِيُّ]: حَدَّثَنَا بِشْرُ بْنُ الْمُفَضَّلِ: حَدَّثَنَا عَبْدُ اللهِ بْنُ عُثْمَانَ بْنِ خُثَيْمٍ عَنْ يُوسُفَ بْنِ مَاهَكَ أَنَّهُمْ دَخَلُوا عَلَى حَفْصَةَ بِنْتِ عَبْدِ الرَّحْمٰنِ فَسَأَلُوهَا عَنِ الْعَقِيقَةِ، فَأَخْبَرَتْهُمْ أَنَّ عائِشَةَ أَخْبَرَتْهَا: أَنَّ رَسُولَ اللهِ ﷺ أَمَرَهم عَنِ الغُلَامِ شَاتَانِ مُكَافِئَتَانِ وعَنِ الجَارِيَةِ شَاةٌ.

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ، وأُمِّ كُرْزٍ، وبُرَيْدَةَ، وسَمُرَةَ، وأَبِي هُرَيْرَةَ، وعَبْدِ اللهِ بْنِ عَمْرٍو، وأَنَسٍ، وسَلْمَانَ بْنِ عَامِرٍ، وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وَحَفْصَةُ هِيَ ابْنَةُ عَبْدِ الرَّحْمٰنِ ابْنِ أَبِي بَكْرٍ الصِّدِّيقِ.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، ح:٣١٦٣ من حديث ابن خثيم به وصححه ابن حبان، ح:١٠٥٨ * وفي الباب عن علي [يأتي:١٥١٩] وأم كرز [يأتي:١٥١٦] وبريدة [أبو داود، ح:٢٨٤٣] وسمرة [يأتي:١٥٢٢] وأبي هريرة [البيهقي:٩/ ٣٠٢] وعبدالله بن عمرو [أبو داود، ح:٢٨٤٢] وأنس [الطبراني في الصغير:١/ ٨٥ وسنده موضوع] وسلمان بن عامر [يأتي:١٥١٥] وابن عباس [أبو داود، ح:٢٨٤١].

Comments:

According to Abū 'Ubaidah, *'Aqīqah'* is the hair that is on the head of a newly born baby. As this hair is shaved on the seventh day after birth, and an animal is slaughtered, therefore, all this process is named *'Aqīqah'*. According to Imām Aḥmad, slaughtering an animal for this particular event is called *'Aqīqah'*

Chapter (...) The *Adhān* In The Ear Of The Newborn

(المعجم . . .) - بَابُ الْأَذَانِ فِي أُذُنِ الْمَوْلُودِ (التحفة ١٧)

1514. 'Ubaidullāh bin Abī Rāfi' narrated that his father said: "I saw

١٥١٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ وعَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ

قَالَا: حَدَّثَنَا سُفْيَانُ عَنْ عَاصِمِ بْنِ عُبَيْدِ اللهِ، عَنْ عُبَيْدِ اللهِ بْنِ أَبِي رافِعٍ، عَنْ أَبِيهِ قَالَ: رَأَيْتُ رَسُولَ اللهِ ﷺ أَذَّنَ فِي أُذُنِ الْحَسَنِ بْنِ عَلِيٍّ - حِينَ وَلَدَتْهُ فَاطِمَةُ - بِالصَّلَاةِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ. والْعَمَلُ [فِي الْعَقِيقَةِ] عَلَيْهِ، ورُوِيَ عَنِ النَّبِيِّ ﷺ فِي الْعَقِيقَةِ مِنْ غَيْرِ وَجْهٍ: عَنِ الْغُلَامِ شَاتَانِ مُكَافِئَتَانِ، وعَنِ الْجَارِيَةِ شَاةٌ. ورُوِيَ عَنِ النَّبِيِّ ﷺ أَيْضًا: أَنَّهُ عَقَّ عَنِ الْحَسَنِ بْنِ عَلِيٍّ بِشَاةٍ.

وقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هٰذَا الْحَدِيثِ.

the Messenger of Allāh ﷺ say the *Adhān* in the ear of Al-Ḥasan bin 'Alī – when he was born to Fāṭimah – the *Adhān* of *Ṣalāt*." (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Hasan*] *Ṣaḥīḥ*. And it is acted upon [regarding the *'Aqīqah*]. Through other routes, it has been reported from the Prophet ﷺ: For a boy two sheep are sufficient, and for a girl, one sheep. And it has also been reported: That he had one sheep for the *'Aqīqah* for Al-Ḥasan bin 'Alī. Some of the people of knowledge followed this *Ḥadīth*.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الأدب، باب: في المولود يؤذن في أذنه، ح:٥١٠٥ من حديث يحيى بن سعيد القطان به * عاصم بن عبيدالله: ضعيف، راجع نيل المقصود، ح:٣١٦٣ وغيره.

Comments:

Immediately after the birth of a child, *'Adhān* should be called in the right ear of the baby. 'Umar bin Abdul Aziz used to say the *'Adhān* in the right ear, and the *Iqāmah* in the left. Some of the scholars considered this action based on the various narrations which-although weak - strengthen eachother, in their view. Shaikh Al-Albānī's last grade was that it is weak. See *Aḍ-Ḍa'īfah* no. 6121.

١٥١٥ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ [الْخَلَّالُ]: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا هِشَامُ ابْنُ حَسَّانَ عَنْ حَفْصَةَ بِنْتِ سِيرِينَ، عَنِ الرَّبَابِ، عَنْ سَلْمَانَ بْنِ عامِرٍ الضَّبِّيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَعَ الْغُلَامِ عَقِيقَةٌ فَأَهْرِيقُوا عَنْهُ دَمًا، وأَمِيطُوا عَنْهُ الأَذَى».

حَدَّثَنَا الْحَسَنُ [بْنُ أَعْيَنَ]: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا ابْنُ عُيَيْنَةَ عَنْ عَاصِمِ بْنِ سُلَيْمَانَ

1515. Salmān bin 'Āmir Aḍ-Ḍabbī narrated that the Messenger of Allāh ﷺ said: "For a boy, there is an *'Aqīqah*. So spill blood for him, and remove the harm from him." (*Ṣaḥīḥ*)

(Another chain) with similar.

[Abū 'Eīsā said:] This *Ḥadīth* is [*Hasan*] *Ṣaḥīḥ*

الْأَحْوَلِ، عَنْ حَفْصَةَ بِنْتِ سِيرِينَ، عَنِ الرَّبَابِ، عَنْ سَلْمَانَ بْنِ عامِرٍ، عَنِ النَّبِيِّ ﷺ مِثْلَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ.

تخريج: وأخرجه البخاري، العقيقة، باب إماطة الأذى عن الصبي في العقيقة، ح:٥٤٧١ من حديث هشام بن حسان به وهو في مصنف عبدالرزاق:٦/ ٣٢٩، ح:٧٩٥٨.

Comments:

Here *Al-Adhā* (harm) means the hair on the head of a new born baby.

1516. Umm Kurz narrated that she asked the Messenger of Allāh ﷺ about the *'Aqīqah*. He said: "For the boy is two sheep, and for the girl is one, it will not harm you if they (i.e. the sheep) are male or female." ***(Hasan)***

[Abū 'Eīsā said:] This *Hadīth* is [*Hasan*] *Sahīh*.

١٥١٦ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا ابْنُ جُرَيْجٍ قَالَ: أَخْبَرَنِي عُبَيْدُ اللهِ بْنُ أَبِي يَزِيدَ، عَنْ سِبَاعِ بْنِ ثَابِتٍ: أَنَّ مُحَمَّدَ بْنَ ثَابِتِ بْنِ سِبَاعٍ أَخْبَرَهُ: أَنَّ أُمَّ كُرْزٍ أَخْبَرَتْهُ: أَنَّهَا سَأَلَتْ رَسُولَ اللهِ ﷺ عَنِ العَقِيقَةِ، فَقَالَ: «عَنِ الغُلَامِ شَاتَانِ، وعَنِ الْجَارِيَةِ واحِدَةٌ، لَا يَضُرُّكُمْ ذُكْرَانًا كُنَّ أَمْ إِنَاثًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ.

تخريج: [إسناده حسن] وأخرجه أحمد:٦/ ٤٢٢ عن عبدالرزاق به ورواه أبو داود، ح:٢٨٣٦ من حديث عبيدالله بن أبي يزيد، والنسائي:١/ ١٦٥، ح:٤٢٢٣ من حديث ابن جريج، وصححه ابن حبان، ح:١٠٥٩ والحاكم والذهبي.

Chapter 17. 'The Best Sacrifice Is The Male Sheep'

(المعجم ١٧) - **بَابٌ: [خَيْرُ الأُضْحِيَةِ الْكَبْشُ]** (التحفة ١٨)

1517. Abū Umāmah narrated that the Messenger of Allāh ﷺ said: "The best *Udhiyah* (Sacrifice) is a ram, and the best (burial) shroud is the *Hullah*."[1] ***(Da'īf)***

١٥١٧ - حَدَّثَنَا سَلَمَةُ بْنُ شَبِيبٍ: حَدَّثَنَا أَبُو الْمُغِيرَةِ عَنْ عُفَيْرِ بْنِ مَعْدَانَ، عَنْ سُلَيْمِ بْنِ عامِرٍ، عَنْ أَبِي أُمَامَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ:

[1] "Meaning an *Izār* and a *Ridā'*. In *An-Nihāyah* it says: '*Al-Hullah* is singular for *Hulal*, a Yemeni *Burūd*. It will not be called "*Hullah*" unless it is two articles of clothing from the same cloth.'" (*Tuhfat Al-Ahwadhī*.)

«خَيْرُ الأُضْحِيَةِ الكَبْشُ، وَخَيْرُ الكَفَنِ الْحُلَّةُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ وعُفَيْرُ بْنُ مَعْدَانَ يُضَعَّفُ فِي الْحَدِيثِ.

[Abū 'Eīsā said:] This Ḥadīth is Gharīb, and 'Ufair bin Ma'dān was graded weak in Ḥadīth.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الأضاحي، باب ما يستحب من الأضاحي، ح: ٣١٣٠ من حديث عفير به وهو ضعيف.

Comments:

Among the goat, lamb and ram, a ram is preferred and a better choice of sacrifice. Complete camel as a sacrifice for one person is appreciated and considered excellent choice. (*Al-Mughnī* v. 13. p.366.)

Chapter 18. A Sacrifice Every Year

(المعجم ١٨) - بَابٌ: [الأُضْحِيَةُ فِي كُلِّ عَامٍ] (التحفة ١٩)

1518. Mikhnaf bin Sulaim narrated: "We were standing with the Prophet ﷺ at 'Arafāt when I heard him say: 'O you people! For every household each year is *Udḥiyah* (a sacrifice) and *'Atīrah*. Do you know what an *'Atīrah* is? It is that which you call *Ar-Rajabiyyah*.'"[1] (*Ḍa'īf*)

[Abū 'Eīsā said:] This Ḥadīth is Ḥasan Gharīb. We do not know of this Ḥadīth except through this route narrated by Ibn 'Awn.

١٥١٨ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا ابْنُ عَوْنٍ: حَدَّثَنَا أَبُو رَمْلَةَ عَنْ مِخْنَفِ بْنِ سُلَيْمٍ قَالَ: كُنَّا وُقُوفًا مَعَ النَّبِيِّ ﷺ بِعَرَفَاتٍ فَسَمِعْتُهُ يَقُولُ: «يَا أَيُّهَا النَّاسُ، عَلَى كُلِّ أَهْلِ بَيْتٍ فِي كُلِّ عَامٍ أُضْحِيَةٌ وعَتِيرَةٌ، هَلْ تَدْرُونَ مَا العَتِيرَةُ: هِيَ الَّتِي تُسَمُّونَهَا الرَّجَبِيَّةَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، وَلَا نَعْرِفُ هٰذَا الْحَدِيثَ إِلَّا مِن هٰذَا الْوَجْهِ مِنْ حَدِيثِ ابْنِ عَوْنٍ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الضحايا، باب ما جاء في إيجاب الأضاحي، ح:٢٧٨٨ وابن ماجه، ح: ٣١٢٥ والنسائي، ح:٤٢٢٩ من حديث ابن عون به وللحديث شواهد عند النسائي، ح: ٤٢٣٠ وغيره أبو رملة مجهول الحال، لم يوثقه غير الترمذي.

Comments:

One who has the ability and resourses should offer an animal in sacrifice on behalf of his family every year, and if possible one should slaughter an animal in the month of Rajab to get the favor of Allāh. However, the majority of the scholars hold the view that the order for *'Atīrah* is abrogated. (*Tuḥfat Al-Aḥwadhī*).

[1] Shaikh Al-Albānī graded it *Ḥasan*, while the order for *'Atīrah* is abrogated, meaning the order for *Udḥiyah* remains.

Chapter 19. The *'Aqīqah* With One Sheep

(المعجم ١٩) - بَابٌ: [الْعَقِيقَةُ بِشَاةٍ]

(التحفة ٢٠)

1519. Muhammad bin 'Alī bin Al-Husain narrated that 'Alī bin Abī Ṭālib said: "The Messenger of Allāh ﷺ had the *'Aqīqah* for Al-Hasan with one sheep, and said: 'O Fāṭimah! Shave his head and give the weight of his hair in silver as charity.'" [He said:] "So I weighed it, and it was the weight of a Dirham or a bit of a Dirham."(***Hasan***)

[Abū 'Eīsā said:] This <u>*Hadīth*</u> is *Hasan Gharīb*. Its chain of narration is not connected. Abū Ja'far Muhammad bin 'Alī [bin Al-Husain] did not see 'Alī bin Abī Ṭālib.

١٥١٩ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيى الْقُطَعِيُّ: حَدَّثَنَا عَبْدُ الْأَعْلَى [ابْنُ عَبْدِالْأَعْلَى] عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنْ عَبْدِ اللهِ بْنِ أَبِي بَكْرٍ، عَنْ مُحَمَّدِ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ، عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ قَالَ: عَقَّ رَسُولُ اللهِ ﷺ عَنِ الْحَسَنِ بِشَاةٍ وقَالَ: «يَا فاطِمَةُ احْلِقِي رَأْسَهُ وتَصَدَّقِي بِزِنَةِ شَعْرِهِ فِضَّةً»، [قَالَ:] فَوَزَنَّتُهُ، فَكانَ وَزْنُهُ دِرْهَمًا أَوْ بَعْضَ دِرْهَمٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، وإِسْنَادُهُ لَيْسَ بِمُتَّصِلٍ وأَبُو جَعْفَرٍ مُحَمَّدُ بْنُ عَلِيِّ [ابْنِ الْحُسَيْنِ] لَمْ يُدْرِكْ عَلِيَّ بْنَ أَبِي طَالِبٍ.

تخريج: [حسن] وأخرجه ابن أبي شيبة: ٨/ ٤٧، ح: ٤٢٨٦ عن عبدالأعلى به وللحديث شواهد عند ابن أبي شيبة والبيهقي: ٩/ ٣٠٤ وغيرهما.

Comments:

It is inferred from the study of various narrations, that giving silver in charity is equal to the weight of hair is preferable and appreciated. (*Al-Mughnī* v.13. p. 397.) According to an authentic narration, two lambs for a boy and one for a girl are recommended for sacrifice on the day of *Aqīqah*. Sacrifice of one lamb is also allowed for the boy in case of tight financial circumstances. (*Al-Mughnī* v.3. p. 396.)

Chapter (...) The Sacrifice With Two Male Sheep

(المعجم ...) - بَابٌ: [الْأُضْحِيَةُ بِكَبْشَيْنِ] (التحفة ٢١)

1520. 'Abdur-Rahmān bin Abī Bakrah narrated from his father, that the Prophet ﷺ gave a <u>*Khuṭbah*</u>, then he descended and called for two rams and slaughtered them. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This <u>*Hadīth*</u> is [*Hasan*] *Ṣaḥīḥ*.

١٥٢٠ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا أَزْهَرُ بْنُ سَعْدٍ السَّمَّانُ عَنِ ابْنِ عَوْنٍ، عَنْ مُحَمَّدِ بْنِ سِيرِينَ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ أَبِي بَكْرَةَ، عَنْ أَبِيهِ: أَنَّ النَّبِيَّ ﷺ خَطَبَ ثُمَّ نَزَلَ فَدَعَا بِكَبْشَيْنِ فَذَبَحَهُمَا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ.

تخريج: وأخرجه مسلم، القسامة والمحاربين، باب تغليظ تحريم الدماء والأعراض والأموال، ح:١٦٧٩ من حديث ابن عون به مطولاً.

Chapter 20. What Is Said Upon Slaughtering

(المعجم ٢٠) - **بَابٌ: [مَايَقُولُ إِذَا ذَبَحَ]** (التحفة ٢٢)

1521. Jābir bin 'Abdullāh narrated: "I attended the (*'Eīd Al-Aḍḥā*) with the Prophet ﷺ at the *Muṣallā*. When he finished his *Khuṭbah*, he descended from his *Minbar* and was given a male sheep. The Messenger of Allāh ﷺ slaughtered it with his hand and said: '*Bismillāh, Wa Allāhu Akbar*, this is from me and whoever does not slaughter from my *Ummah*.'" (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* from this route. This is acted upon according to the people of knowledge among the Companions of the Prophet ﷺ and others. When a man slaughters, he says: "*Bismillāh, Wa Allāhu Akbar.*" This is the view of Ibn Al-Mubārak. As for (one of the narrators) Al-Muṭṭalib bin 'Abdullāh bin Ḥanṭab, it is said that he did not hear from Jābir.

١٥٢١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا يَعْقُوبُ بْنُ عَبْدِ الرَّحْمٰنِ عَنْ عَمْرِو بْنِ أَبِي عَمْرٍو، عَنِ الْمُطَّلِبِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: شَهِدْتُ مَعَ النَّبِيِّ ﷺ الأَضْحَى بِالْمُصَلَّى، فَلَمَّا قَضَى خُطْبَتَهُ نَزَلَ عَنْ مِنْبَرِهِ فَأُتِيَ بِكَبْشٍ فَذَبَحَهُ رَسُولُ اللهِ ﷺ بِيَدِهِ وقَالَ: «بِسْمِ اللهِ، واللهُ أَكْبَرُ، هٰذَا عَنِّي وعَمَّنْ لَمْ يُضَحِّ مِنْ أُمَّتِي».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ أَنْ يَقُولَ الرَّجُلُ إِذا ذَبَحَ: بِسْمِ اللهِ، واللهُ أَكْبَرُ. وهُوَ قَوْلُ ابْنِ الْمُبَارَكِ. والمُطَّلِبُ بْنُ عَبْدِ اللهِ بْنِ حَنْطَبٍ، يُقَالُ: إِنَّهُ لَمْ يَسْمَعْ مِنْ جَابِرٍ.

تخريج: [حسن] وأخرجه أبو داود، الضحايا، باب: في الشاة يضحى بها عن جماعة، ح:٢٨١٠ عن قتيبة به وللحديث شواهد عند أبي داود، ح:٢٧٩٥ والحاكم: ٤/ ٢٢٩ وغيرهما.

Comments:

At the time of slaughtering an animal of sacrifice, one mentions the Name of Allāh; "I start in the Name of Allāh and Allāh is the Greatest". Most of the scholars add these words "O Allāh this is in Your Name and accept from me." (*Al-Mughnī* v. 13. p. 390.)

Chapter 21. About The *'Aqīqah*

(المعجم ٢١) - بَابٌ: [مِنَ الْعَقِيقَةِ]

(التحفة ٢٣)

1522. Samurah narrated that the Messenger of Allāh ﷺ said: "The boy is mortgaged by his *'Aqīqah*; slaughtering should be done for him on the seventh day, he should be given a name, and his head should be shaved." (*Ṣaḥīḥ*)

(Another chain) with similar meaning.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to the people of knowledge. They consider it recommended that the *'Aqīqah* be done for the boy on the seventh day. If it is not possible on the seventh day then it is done on the fourteenth day. If that is not possible, then an *'Aqīqah* is done for him on the twenty-first day. And they say that no sheep is acceptable for *'Aqīqah* which is not acceptable for *Uḍhiyah*.

١٥٢٢ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ عَنْ إِسْمَاعِيلَ بْنِ مُسْلِمٍ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْغُلَامُ مُرْتَهَنٌ بِعَقِيقَتِهِ يُذْبَحُ عَنْهُ يَوْمَ السَّابِعِ، ويُسَمَّى، ويُحْلَقُ رَأْسُهُ».

حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا سَعِيدُ بْنُ أَبِي عَرُوبَةَ عَنْ قَتَادَةَ، عَنِ الْحَسَنِ، عَنْ سَمُرَةَ بْنِ جُنْدُبٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ: يَسْتَحِبُّونَ أَنْ يُذْبَحَ عَنِ الْغُلَامِ الْعَقِيقَةُ يَوْمَ السَّابِعِ، فَإِنْ لَمْ يَتَهَيَّأْ يَوْمَ السَّابِعِ فَيَوْمَ الرابِعَ عَشَرَ، فَإِنْ لَمْ يَتَهَيَّأْ عُقَّ عَنْهُ يَوْمَ حادٍ وعِشْرِينَ. وقَالُوا: لَا يُجْزِىءُ فِي الْعَقِيقَةِ مِنَ الشَّاءِ إِلَّا ما يُجْزِىءُ فِي الْأُضْحِيَةِ.

تخريج: [صحيح] وأخرجه أبو داود، الضحايا، باب: في العقيقة، ح:٢٨٣٧، ٢٨٣٨ وابن ماجه، ح:٣١٦٥ والنسائي، ح:٤٢٢٥ من حديث الحسن البصري به ورواه أبو داود، ح:٢٨٣٨ من حديث سعيد بن أبي عروبة به وصححه ابن الجارود، ح:٩١٠ والحاكم:٤/٣٧ والذهبي والإشبيلي وغيرهم.

Comments:

Some scholars say that because a child is a blessing of Allāh for man, the *'Aqīqah* is an acknowledgement and act of gratitude for this blessing. It remains due until it is acknowledged by sacrificing an animal in the Name of Allāh. Shaving the head of the baby is must at this time. The Messenger of Allāh ﷺ slaughtered on behalf of himself after he was forty, indicating it's permissibility whenever one is able if it was not done on the seventh day.

Chapter 22. To Avoid Removing One's Hair For Those Who Want To Offer Sacrifice

(المعجم ٢٢) - بَابُ [تَرْكِ أَخْذِ الشَّعْرِ لِمَنْ أَرَادَ أَنْ يُضَحِّيَ] (التحفة ٢٤)

1523. Umm Salamah narrated that the Prophet ﷺ said: "Whoever sees the crescent of Dhul-Ḥijjah, and wants to slaughter (a sacrifice), he should not take from his hair nor from his nails." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*]. What is correct (in the chain) is " 'Amr bin Muslim," Muḥammad bin 'Amr bin 'Alqamah and others narrated from him. This *Ḥadīth* has been reported from Sa'eed bin Al-Musayyab, from Umm Salamah, from the Prophet ﷺ, through routes other than this and it is similar in meaning. This is the saying of some of the people of knowledge, and it is the view of Sa'eed bin Al-Musayyab, and Aḥmad and Isḥāq went with this *Ḥadīth*.

Some of the people of knowledge permitted that, they said that there is no harm if he takes from his hair and his nails. This is the view of Ash-Shāfi'ī, and he used the *Ḥadīth* of 'Āishah as proof; that the Prophet ﷺ would dispatch from Al-Madīnah with the *Hadī*, and he would not avoid anything that the *Muḥrim* would avoid.

١٥٢٣ - **حَدَّثَنَا** أَحْمَدُ بْنُ الْحَكَمِ الْبَصْرِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ شُعْبَةَ، عَنْ مالِكِ بْنِ أَنَسٍ، عَنْ عَمْرٍو أَوْ عُمَرَ بْنِ مُسْلِمٍ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أُمِّ سَلَمَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ رَأَى هِلَالَ ذِي الحِجَّةِ وأَرَادَ أَنْ يُضَحِّيَ فَلَا يَأْخُذَنَّ مِنْ شَعْرِهِ ولَا مِنْ أَظْفَارِهِ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ] والصَّحِيحُ هُوَ عَمْرُو بْنُ مُسْلِمٍ، قَدْ رَوَى عَنْهُ مُحَمَّدُ بْنُ عَمْرِو بْنِ عَلْقَمَةَ وغَيْرُ واحِدٍ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أُمِّ سَلَمَةَ عَنِ النَّبِيِّ ﷺ مِنْ غَيْرِ هٰذَا الْوَجْهِ نَحْوَ هٰذَا، وهُوَ قَوْلُ بَعْضِ أَهْلِ الْعِلْمِ، وبِهِ كانَ يَقُولُ سَعِيدُ بْنُ الْمُسَيَّبِ.

وإِلَى هٰذَا الْحَدِيثِ ذَهَبَ أَحْمَدُ، وإِسْحَاقُ، وَرَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ في ذٰلِكَ، فَقَالُوا: لَا بَأْسَ أَنْ يَأْخُذَ مِنْ شَعْرِهِ وأَظْفَارِهِ، وهُوَ قَوْلُ الشَّافِعِيِّ. واحْتَجَّ بِحَدِيثِ عائِشَةَ؛ أَنَّ النَّبِيَّ ﷺ كانَ يَبْعَثُ بالهَدْيِ مِنَ الْمَدِينَةِ فَلَا يَجْتَنِبُ شَيْئًا مِمَّا يَجْتَنِبُ مِنْهُ الْمُحْرِمُ.

تخريج: وأخرجه مسلم، الأضاحي، باب نهي من دخل عليه عشر ذي الحجة ... إلخ، ح:١٩٧٧ عن أحمد به.

Comments:

According to Imām Aḥmad and Sa'eed bin Musayyab it is unlawful to trim the hair, according to Mālik, Ash-Shāfi'ī and some *Ḥanbalis* trimming the hair is disliked. In the view of Abū Ḥanīfah, it is not disliked. See (*Tuḥfat Al-Aḥwadhī*)

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18. The Chapters On Vows And Oaths From The Messenger Of Allāh ﷺ

(المعجم ١٨) - أَبْوَابُ النُّذُورِ وَالْأَيْمَانِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٦)

Chapter 1. What Has Been Related From The Messenger Of Allāh ﷺ About 'There Is No Vowing For Disobedience'

(المعجم ١) - بَابُ مَا جَاءَ عَنْ رَسُولِ اللهِ ﷺ: أَنْ لَا نَذْرَ فِي مَعْصِيَةٍ (التحفة ١)

1524. 'Āishah narrated that the Messenger of Allāh ﷺ said: "There is no vowing for disobedience, and its atonement is the atonement of an oath." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Ibn 'Umar, Jābir, and 'Imrān bin Ḥuṣain.

[Abū 'Eīsā said:] This *Ḥadīth* is not correct, because Az-Zuhrī did not hear this *Ḥadīth* from Abū Salamah.

[He said:] I heard Muḥammad saying: "It has been reported by more than one narrator – among them – Mūsā bin 'Uqbah, and Ibn Abī 'Atīq, from Az-Zuhrī: 'from Sulaimān bin Arqam, from Yaḥya bin Abī Kathīr, from Abū Salamah, from 'Āishah, from the Prophet ﷺ.'" Muḥammad said: "And this is the *Ḥadīth*."

١٥٢٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو صَفْوَانَ عَنْ يُونُسَ بْنِ يَزِيدَ، عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ، عَنْ عائِشَةَ قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «لَا نَذْرَ فِي مَعْصِيَةٍ وَكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ، وجابِرٍ، وعِمْرَانَ بْنِ حُصَيْنٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا يَصِحُّ، لأَنَّ الزُّهْرِيَّ لَمْ يَسْمَعْ هٰذَا الحَدِيثَ مِنْ أَبِي سَلَمَةَ، [قَالَ:] وسَمِعْتُ مُحَمَّدًا يَقُولُ: رُوِيَ عَنْ غَيْرِ واحِدٍ مِنْهُمْ: مُوسَى بْنُ عُقْبَةَ، وابْنُ أَبِي عَتِيقٍ عَنِ الزُّهْرِيِّ، عَنْ سُلَيمَانَ بْنِ أَرْقَمَ، عَنْ يَحْيى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَمَةَ، عَنْ عائِشَةَ عَنِ النَّبِيِّ ﷺ. قَالَ مُحَمَّدٌ: والحَدِيثُ هُوَ هٰذَا.

تخريج: [**صحيح**] وأخرجه أبو داود، الأيمان والنذور، باب من رأى عليه كفارةً إذا كان في معصية، ح:٣٢٩٠ وابن ماجه، ح:٢١٢٥ والنسائي، ح:٣٨٦٥ من حديث يونس به والزهري صرح بالسماع عند النسائي، ح:٣٨٦٩ وللحديث شواهد * وفي الباب عن ابن عمر [لعله يشير إلى

حديث البخاري، ح:٦٦٠٨ ومسلم، ح:١٦٣٩] وجابر [أحمد:٣/٢٩٧] وعمران بن حصين [النسائي:٧/٢٩، ح:٣٨٧٧-٣٨٨٢].

1525. 'Āishah narrated that the Prophet ﷺ said: "There is no vowing for disobedience to Allāh, and its atonement is the atonement of an oath." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, and it is more correct than the (previous) narration of Abū Ṣafwān from Yūnus. [Abū Ṣafwān is from Makkah and his name is 'Abdullāh bin Sa'eed bin 'Abdul-Malik bin Marwān. Al-Ḥumaidī and more than one of the esteemed people of *Ḥadīth* reported from him].

There are those among the people of knowledge from the Companions of the Prophet ﷺ and others who said: "There is no vowing for disobedience to Allāh, and its atonement is the atonement of an oath." This is the view of Aḥmad and Isḥāq and they used the *Ḥadīth* of Az-Zuhrī from Abū Salamah from 'Āishah as proof.

Some of the people of knowledge among the Companions of the Prophet ﷺ and others said that there is no vowing for disobedience, and that there is no atonement for that. This is the view of Mālik and Ash-Shāfi'ī.

١٥٢٥ - حَدَّثَنَا أَبُو إِسْمَاعِيلَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ بْنِ يُوسُفَ التِّرْمِذِيُّ: حَدَّثَنَا أَيُّوبُ ابْنُ سُلَيْمَانَ بْنِ بِلَالٍ: حَدَّثَنِي أَبُو بَكْرِ بْنُ أَبِي أُوَيْسٍ عَنْ سُلَيْمَانَ بْنِ بِلَالٍ، عَنْ مُوسَى ابْنِ عُقْبَةَ وعَبْدِ اللهِ بْنِ أَبِي عَتِيقٍ، عَنِ الزُّهْرِيِّ، عَنْ سُلَيْمَانَ بْنِ أَرْقَمَ، عَنْ يَحْيَى ابْنِ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَمَةَ، عَنْ عائِشَةَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا نَذْرَ في مَعْصِيَةِ اللهِ، وكَفَّارَتُهُ كَفَّارَةُ يَمِينٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ، وهُوَ أَصَحُّ مِنْ حَدِيثِ أَبِي صَفْوَانَ عَنْ يُونُسَ. [وأَبُو صَفْوَانَ هُوَ مَكِّيٌّ واسْمُهُ عَبْدُاللهِ ابْنُ سَعِيدِ بْنِ عَبْدِ الْمَلِكِ بْنِ مَرْوانَ، وقَدْ رَوَى عَنْهُ الْحُمَيْدِيُّ وغَيْرُ واحِدٍ مِنْ أَجِلَّةِ أَهْلِ الحَدِيثِ]. وقَالَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: لَا نَذْرَ في مَعْصِيَةِ اللهِ، وكفَّارَتُهُ كفَّارَةُ يَمِينٍ. وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ واحْتَجَّا بِحَدِيثِ الزُّهْرِيِّ عَنْ أَبِي سَلَمَةَ، عَنْ عائِشَةَ.

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: لَا نَذْرَ في مَعْصِيَةٍ ولَا كفَّارَةَ في ذٰلِكَ. وهُوَ قَوْلُ مالِكٍ، والشَّافِعِيِّ.

تخريج: [صحيح] وأخرجه أبو داود، الأيمان والنذور، باب من رأى عليه كفارةً إذا كان في معصية، ح:٣٢٩٢ والنسائي، ح:٣٨٧٠ من حديث أيوب بن سليمان به.

Comments:

All the *A'immah* agree on the point that fulfillment of a vow that is against

the Commands of Allāh and against the Laws of Islam is unlawful. It should never be fulfilled.

Chapter 2. Whoever Vows To Obey Allāh, Then He Should Obey Him

(المعجم ٢) - [بَابُ مَنْ نَذَرَ أَنْ يُطِيعَ اللهَ فَلْيُطِعْهُ] (التحفة ٢)

1526. 'Āishah narrated that the Prophet ﷺ said: "Whoever vowed to obey Allāh, then he should obey Him. And whoever vowed to disobey Allāh, then he should not disobey Him." ***(Sahīh)***

(Another chain) with similar meanings.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. Yahya bin Abī Kathīr reported it from Al-Qāsim bin Muhammad.

It is the view of some of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the saying of Mālik, and Ash-Shāfi'ī. They said: He should not disobey Allāh, and there is no atonement of an oath when his vow was for disobedience.

١٥٢٦ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ عَنْ مالِكِ [ابْنِ أَنَسٍ]، عَنْ طَلْحَةَ بْنِ عَبْدِ الْمَلِكِ الْأَيْلِيِّ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عائِشَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ نَذَرَ أَنْ يُطِيعَ اللهَ فَلْيُطِعْهُ ومَنْ نَذَرَ أَنْ يَعْصِيَ اللهَ فَلَا يَعْصِهِ».

حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ طَلْحَةَ بْنِ عَبْدِ الْمَلِكِ الْأَيْلِيِّ، عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عائِشَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رَوَاهُ يَحْيى بْنُ أَبِي كَثِيرٍ عَنِ الْقَاسِمِ بْنِ مُحَمَّدٍ. وهُوَ قَوْلُ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ. وبِهِ يَقُولُ مالِكٌ، والشَّافِعِيُّ قَالُوا: لَا يَعْصِي اللهَ ولَيْسَ فِيهِ كَفَّارَةُ يَمِينٍ إِذا كانَ النَّذْرُ في مَعْصِيَةٍ.

تخريج: وأخرجه البخاري، الأيمان والنذور، باب النذر في الطاعة: "وما أنفقتم من نفقة أو نذرتم من نذر"، ح:٦٦٩٦، ٦٧٠٠ من حديث مالك به وهو في الموطأ: ٢/٤٧٦ (يحيى).

Comments:

If a vow or pledge is taken in obedience to Allāh but with a condition of fulfillment of some particular need, it must be accomplished. For example someone says that he will fast for a number of days if Allāh cures him from this ailment, or he will give this much amount in charity in the Name of Allāh if he finds his lost property. After recovery or finding his lost property he must fulfill his vow. If the vow is taken without any condition, again it must be fulfilled. For example if someone says that he will fast for some days, or he will give such and such amount of money in charity, there is no condition attached to it, then it should be fulfilled. Most of the scholars agree on this point. (See for details *Al-Mughnī* v. 13. p. 622-623.)

Chapter 3. (What Has Been Related About) There Is No Vowing In That Over Which The Son Of Ādam Has No Control

(المعجم ٣) - بَابُ [مَا جَاءَ] لَا نَذْرَ فِيمَا لَا يَمْلِكُ ابْنُ آدَمَ (التحفة ٣)

1527. Thābit bin Aḍ-Ḍaḥḥāk narrated that the Prophet ﷺ said: "It is not for a person to vow about that over which he has no control." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Amr and 'Imrān bin Ḥuṣain.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٢٧ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْحَاقُ بْنُ يُوسُفَ الْأَزْرَقُ عَنْ هِشَامٍ الدَّسْتَوَائِيِّ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي قِلَابَةَ، عَنْ ثَابِتِ بْنِ الضَّحَّاكِ عَنِ النَّبِيِّ ﷺ قَالَ: «لَيْسَ عَلَى الْعَبْدِ نَذْرٌ فِيمَا لَا يَمْلِكُ».

[قَالَ:] وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو وعِمْرَانَ بْنِ حُصَيْنٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الإيمان، باب بيان غلظ تحريم قتل الإنسان نفسه ... إلخ، ح:١١٠ من حديث هشام الدستوائي والبخاري، ح:٦٠٤٧ من حديث يحيى بن أبي كثير به
* وفي الباب عن عبدالله بن عمرو [تقدم: ١١٨١] وعمران بن حصين [مسلم، ح:١٦٤١].

Comments:

It is not allowed to take vow about something which does not belong to the person taking the vow. For example saying that if Allāh cures him from the aliment he will manumit that particular slave which actually is not his property, or he will give that amount in charity which he does not have.

Chapter 4. (What Has Been Related) About Atonement For A Vow When It Was Not Specified

(المعجم ٤) - بَابُ [مَا جَاءَ] فِي كَفَّارَةِ النَّذْرِ إِذَا لَمْ يُسَمَّ (التحفة ٤)

1528. 'Uqbah bin 'Āmir narrated that the Messenger of Allāh ﷺ said: "The atonement for a vow when it is not specified is the atonement for an oath." (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*.

١٥٢٨ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ: حَدَّثَنِي مُحَمَّدٌ مَوْلَى الْمُغِيرَةِ بْنِ شُعْبَةَ: حَدَّثَنِي كَعْبُ بْنُ عَلْقَمَةَ، عَنْ أَبِي الْخَيْرِ، عَنْ عُقْبَةَ بْنِ عَامِرٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «كَفَّارَةُ النَّذْرِ إذا لَمْ يُسَمَّ: كَفَّارَةُ يَمِينٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الأيمان والنذور، باب من نذر نذرًا لم يسمه، ح:٣٣٢٣ من حديث أبي بكر بن عياش به وهو ضعيف وشيخه مجهول، وله شاهد عند مسلم، ح:١٦٤٥ دون قوله: "إذا لم يسم" حديث أبي داود صحيح بالشواهد.

Comments:

If a vow is made without a condition, the expiation is that of an oath. For example, while making a vow if it is not made clear that a fast will be kept or some amount will be given in charity, or voluntary prayers (*Nawāfil*) will be performed, etc., in this case one has to pay the expiation for an oath. (*Tuhfat Al-Ahwadhī* v.2. p.368.)

Chapter 5. (What Has Been Related) About Whoever Takes An Oath And Then Sees That Something Else Is Better Than It

(المعجم ٥) - **بَابُ [مَا جَاءَ] فِيمَنْ حَلَفَ عَلَى يَمِينٍ فَرَأَى غَيْرَهَا خَيْرًا مِنْهَا** (التحفة ٥)

1529. 'Abdur-Rahmān bin Samurah narrated that the Messenger of Allāh ﷺ said: "O 'Abdur-Rahmān! Do not ask for a position of leadership, for if you receive it due to asking, you will be left alone with it, and if you receive it without asking, then you will be aided in it. And if you take an oath and you see that something else is better than it, then do what is better, and make an atonement for your oath." (***Sahīh***)

There are narrations on this topic from ['Alī, Jābir], 'Adī bin Hātim, Abū Ad-Dardā', Anas, 'Āishah, 'Abdullāh bin 'Amr, Abū Hurairah, Umm Salamah, and Abū Mūsā.

[Abū 'Eīsā said:] The *Hadīth* of 'Abdur-Rahmān bin Samurah is a *Hasan Sahīh Hadīth*.

١٥٢٩ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الْأَعْلَى [الصَّنْعَانِيُّ]: حَدَّثَنَا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ عَنْ يُونُسَ [هُوَ ابْنُ عُبَيْدٍ]: حَدَّثَنَا الْحَسَنُ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ سَمُرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «يَا عَبْدَ الرَّحْمٰنِ، لَا تَسْأَلِ الْإِمَارَةَ فَإِنَّكَ إِنْ أَتَتْكَ عَنْ مَسْأَلَةٍ وُكِلْتَ إِلَيْهَا، وَإِنَّكَ إِنْ أَتَتْكَ مِنْ غَيْرِ مَسْأَلَةٍ أُعِنْتَ عَلَيْهَا، وَإِذَا حَلَفْتَ عَلَى يَمِينٍ فَرَأَيْتَ غَيْرَهَا خَيْرًا مِنْهَا فَأْتِ الَّذِي هُوَ خَيْرٌ وَلْتُكَفِّرْ عَنْ يَمِينِكَ».

وفِي الْبَابِ عَنْ [عَلِيٍّ، وجابِرٍ]، وعَدِيِّ ابْنِ حاتِمٍ، وأَبِي الدَّرْدَاءِ، وأَنَسٍ، وعائِشَةَ، وعَبْدِ اللهِ بْنِ عَمْرٍو، وأَبِي هُرَيْرَةَ، وأُمِّ سَلَمَةَ، وأَبِي مُوسَى.

[قَالَ أَبُو عِيسَى:] حَدِيثُ عَبْدِ الرَّحْمٰنِ ابْنِ سَمُرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الأحكام، باب من سأل الإمارة وكل إليها،

ح:٧١٤٧ ومسلم، ح:١٦٥٢ من حديث يونس بن عبيد به * وفي الباب عن علي [لعله يشير إلى حديث أحمد:١/ ٩٠ والله أعلم] وجابر [الطبراني في الأوسط:٥/ ٢٤٦، ح:٤٤٨٥] وعدي بن حاتم [مسلم، ح:١٦٥١] وأبي الدرداء [الحاكم:٤/ ٣٠١ والبيهقي:١٠/ ٥٢] وأنس [يأتي:١٥٣٦، ١٥٣٧] وعائشة [ابن ماجه، ح:٢١١٠] وعبدالله بن عمرو [أبو داود، ح:٣٢٧٤] وأبي هريرة [يأتي:١٥٣٠] وأم سلمة [الطبراني في الكبير:٢٣/ ٣٠٧، ح:٦٩٤] وأبي موسى [البخاري، ح:٣١٣٣ ومسلم، ح:١٦٤٩].

Comments:

1. Whoever took an oath to do something and later found that something else is better, then it is advisable to do the better thing and make expiation for his oath.
2. Islam dislikes seeking positions of authority. He who acquires a position through some influence or links and recommendations; he looses guidance from Allāh, and becomes the slave of his base self. But if a post of authority and power is offered by the government it can be accepted, and Allāh's help and guidance will lead the person to make the right decisions.

Chapter 6. (What Has Been Related) About The Atonement Before The Violation

(المعجم ٦) - بَابُ [مَا جَاءَ] فِي الْكَفَّارَةِ قَبْلَ الْحِنْثِ (التحفة ٦)

1530. Abū Hurairah narrated that the Prophet ﷺ said: "Whoever takes an oath, and then he sees that something else is better than it, then he should make atonement for his oath and then do it." **(*Ṣaḥīḥ*)**

[He said:] There are narrations on this topic from Umm Salamah.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others: Atonement before the violation is acceptable. This is the view of Mālik [bin Anas], Ash-Shāfi'ī, Aḥmad and Isḥāq.

Some of the people of knowledge said that there is no atonement

١٥٣٠ - حَدَّثَنَا قُتَيْبَةُ عَنْ مالِكِ بْنِ أَنَسٍ، عَنْ سُهَيْلِ بْنِ أَبِي صالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ حَلَفَ عَلَى يَمِينٍ فَرَأَى غَيْرَها خَيْرًا مِنْها فَلْيُكَفِّرْ عَنْ يَمِينِهِ ولْيَفْعَلْ».

[قَالَ:] وفِي الْبَابِ عَنْ أُمِّ سَلَمَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: أَنَّ الْكَفَّارَةَ قَبْلَ الحِنْثِ تُجْزِىءُ. وهُوَ قَوْلُ مالِكِ [بْنِ أَنَسٍ]، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ.

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَا يُكَفِّرُ إِلَّا بَعْدَ الحِنْثِ. قَالَ سُفْيَانُ الثَّوْرِيُّ: إِنْ كَفَّرَ بَعْدَ

until after the violation. Sufyān Ath-Thawrī said: "If he atones after the violation it is better to me, and if he atones before the violation it is acceptable."

الحِنْثِ أَحَبُّ إِلَيَّ، وإِنْ كَفَّرَ قَبْلَ الحِنْثِ أَجْزَأَهُ.

تخريج: وأخرجه مسلم، الأيمان، باب ندب من حلف يمينًا، فرأى غيرها خيرًا منها ... إلخ، ح: ١٦٥٠ من حديث مالك به وهو في الموطأ: ٢/ ٤٧٨ (يحيى).

Comments:

It is agreed upon that the payment of expiation is an obligation after breaking the oath because it is not an obligation before breaking it. There is a difference of opinion over the question. Can it be paid before breaking an oath? Most of the scholars support this, but it is better if the expiation is paid after breaking an oath.

Chapter 7. (What Has Been Related) About Making Exceptions In Oaths

(المعجم ٧) - بَابُ [مَا جَاءَ] فِي الاسْتِثْنَاءِ فِي الْيَمِينِ (التحفة ٧)

1531. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Whoever swears about an oath and says: 'If Allāh wills (*Inshā'-Allāh*)', then there is no breaking of the oath against him." (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Abū Hurairah.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ḥadīth*. 'Ubaidullāh bin 'Umar and others reported it from Nāfi', from Ibn 'Umar as a *Mawqūf* narration. Similarly, Sālim reported it from Ibn 'Umar [may Allāh be pleased with them] as a *Mawqūf* narration. We do not know of anyone who narrated it in *Marfū'* form except from Ayyūb As-Sakhtiyānī. Ismā'īl bin Ibrāhīm said: "Sometimes Ayyūb narrated it as *Marfū'* and sometimes he did not narrate it as *Marfū'*."

This is acted upon according to most of the people of knowledge

١٥٣١ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا عَبْدُ الصَّمَدِ بْنُ عَبْدِ الوارِثِ: حَدَّثَنِي أَبِي وَحَمَّادُ بْنُ سَلَمَةَ عَنْ أَيُّوبَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ حَلَفَ عَلَى يَمِينٍ فقَالَ: إِنْ شَاءَ اللهُ، فَلَا حِنْثَ عَلَيْهِ».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ، وقَدْ رَوَاهُ عُبَيْدُ اللهِ بْنُ عُمَرَ وغَيْرُهُ عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ مَوْقُوفًا، وهٰكَذَا رَوَى سَالِمٌ عَنِ ابْنِ عُمَرَ [رَضِيَ اللهُ عَنْهُمَا] مَوْقُوفًا، ولَا نَعْلَمُ أَحَدًا رَفَعَهُ غَيْرَ أَيُّوبَ السَّخْتِيَانِيِّ، وقَالَ إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: وكانَ أَيُّوبُ أَحْيَانًا يَرْفَعُهُ وأَحْيَانًا لَا يَرْفَعُهُ.

والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ

among the Companions of the Prophet ﷺ and others regarding making an exception when connecting it to an oath, then one will not be guilty of having broken the oath. This is the view of Sufyān Ath-Thawrī, Al-Awzā'ī, Mālik bin Anas, 'Abdullāh bin Al-Mubārak, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ أَنَّ الْاسْتِثْنَاءَ إِذا كانَ مَوْصُولًا بِالْيَمِينِ فَلَا حِنْثَ عَلَيْهِ، وهُوَ قَوْلُ سُفْيَانَ الثَّـوْرِيِّ، وَالْأَوْزَاعِيِّ، ومَالِكِ ابْنِ أَنَسٍ، وعَبْدِ اللهِ بْنِ الْمُبَارَكِ، والشَّافِعِيِّ وأَحْمَدَ، وإِسْحَاقَ.

تخريج: **[إسناده صحيح]** وأخرجه النسائي: ٧/ ١٢، ١٣ ح: ٣٨٢٤ (الأيمان والنذور، باب من حلف فاستثنى) من حديث عبدالوارث، وأبو داود، ح: ٣٢٦١، ٣٢٦٢ وابن ماجه، ح: ٢١٠٥ والنسائي، ح: ٣٨٦٠ من حديث أيوب السختياني به وصححه ابن حبان * وفي الباب عن أبي هريرة [يأتي: ١٥٣٢].

Comments:

In view of most of the scholars saying *'Inshā'-Allāh'* - if it is Will of Allāh - clears one from the oath and there is no expiation for breaking an oath in such case. In the view of some followers of the Companions of the Prophet ﷺ, and according to Ṭāwūs and Ḥasan, *Inshā'-Allāh* can be said as long as the gathering is there and when the assembly is dispersed, there is no choice of saying it.

1532. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever swears [about an oath] and says: 'If Allāh wills (*Inshā' Allāh*)', then he will not have broken it." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] I asked Muḥammad bin Ismā'īl about this *Ḥadīth*, so he said: "This *Ḥadīth* is a mistake, 'Abdur-Razzāq made the mistake of abbreviating it from the narration of Ma'mar, from Ibn Ṭāwus, from his father, from Abū Hurairah, from the Prophet ﷺ who said: 'Indeed Sulaimān bin Dāwūd, peace be upon him, said: "Tonight I will sleep with seventy women, each woman giving birth to a boy." So he slept with them, but no one woman among them gave

١٥٣٢ - حَدَّثَنَا يَحْيى بْنُ مُوسَى: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ ابْنِ طاوُسٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ حَلَفَ [عَلَىٰ يَمِينٍ] فَقَالَ: إِنْ شَاءَ اللهُ، لَمْ يَحْنَثْ».

[قَالَ أَبُو عِيسَى] سَأَلْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنْ هٰذَا الحَدِيثِ فَقَالَ: هٰذَا حَدِيثٌ خَطَأٌ أَخْطَأَ فِيهِ عَبْدُ الرَّزَّاقِ اخْتَصَرَهُ مِنْ حَدِيثِ مَعْمَرٍ عَنِ ابْنِ طاوُسٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ سُلَيْمَانَ بْنَ دَاوُدَ عَلَيْهِ السَّلَامُ قَالَ: لَأَطُوفَنَّ اللَّيْلَةَ عَلَى سَبْعِينَ امْرَأَةً تَلِدُ كُلُّ امْرَأَةٍ غُلَامًا، فَطَافَ عَلَيْهِنَّ فَلَمْ تَلِدِ امْرَأَةٌ مِنْهُنَّ، إِلَّا امْرَأَةٌ

نِصْفَ غُلَامٍ» فَقَالَ رَسُولُ اللهِ ﷺ: «لَوْ قَالَ: إِنْ شَاءَ اللهُ لَكَانَ كَمَا قَالَ» هٰكَذَا رُوِيَ عَنْ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنِ ابْنِ طَاوُسٍ، عَنْ أَبِيهِ هٰذَا الحَدِيثُ بِطُولِهِ، وقَالَ: سَبْعِينَ امْرَأَةً.

وقَدْ رُوِيَ هٰذَا الحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «قَالَ سُلَيْمَانُ ابْنُ دَاوُدَ: لَأَطُوفَنَّ اللَّيْلَةَ عَلَى مِائَةِ امْرَأَةٍ».

birth except for a woman who gave birth to half a boy.' So the Messenger of Allāh ﷺ said: 'If he had said: "If Allāh wills" (*Inshā'-Allāh*) then it would have been as he said."'

This is how it was reported from 'Abdur-Razzāq, from Ma'mar, from Ibn Ṭāwus, from his father with this *Hadīth* in its entirety, and he said: "Seventy women."

This *Hadīth* has been reported through more than one route from Abū Hurairah, from the Prophet ﷺ, that he said: "Sulaimān bin Dāwūd said: 'Tonight I shall sleep with one-hundred women.'"

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الكفارات، باب الاستثناء في اليمين، ح: ٢١٠٤ والنسائي، ح: ٣٨٨٦ من حديث عبدالرزاق به وصححه ابن حبان، ح: ١١٨٥ وله شواهد وحديث معمر عن ابن طاوس رواه البخاري، ح: ٥٢٤٢ ومسلم، ح: ١٦٥٤/ ٢٤.

Comments:

If someone says that he will do this thing, and adds the words *Inshā'-Allāh*, and later on the work is not done, his oath will not be considered broken, and he will not have to pay any expiation for it. The Prophet ﷺ had been informed by Revelation that if Sulaimān had added the words of *Inshā'-Allāh* to his oath, his desire would have been granted, it means that he would not have failed in fulfilling his desire. This also indicates the permissibility for Sulaimān to have more than four wives at a time, which is prohibited in the *Sharī'ah* of Muḥammad ﷺ.

Chapter 8. (What Has Been Related) About It Being Disliked To Swear By Other Than Allāh

(المعجم ٨) - بَابُ [مَا جَاءَ] فِي كَرَاهِيَةِ الْحَلِفِ بِغَيْرِ اللهِ (التحفة ٨)

١٥٣٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنْ أَبِيهِ: سَمِعَ النَّبِيُّ ﷺ عُمَرَ وهُوَ يَقُولُ: وَأَبِي! وأَبِي! فَقَالَ: «أَلَا إِنَّ اللهَ يَنْهَاكُمْ أَنْ تَحْلِفُوا بِآبَائِكُمْ» فَقَالَ عُمَرُ: فَوَاللهِ ما حَلَفْتُ بِهِ بَعْدَ ذٰلِكَ ذَاكِرًا ولَا آثِرًا.

1533. Sālim narrated from his father (Ibn 'Umar) that the Prophet ﷺ heard 'Umar saying: "By my father! By my father!" So he said: "Verily Allāh prohibits you from swearing by your fathers." So 'Umar said: "By Allāh I did not swear by him after that, neither

intentionally nor in narrating." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Thābit bin Aḍ-Ḍaḥḥāk, Ibn 'Abbās, Abū Hurairah, Qutailah, and 'Abdur-Raḥmān bin Samurah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[Abū 'Eīsā said:] Abū 'Ubaid said: "The meaning of his saying: 'Nor in narrating' is as if he said: 'I do not narrate it from others' or saying: 'I do not mention it from others.'"

[قَالَ:] وفِي الْبَابِ عَنْ ثَابِتِ بْنِ الضَّحَّاكِ، وابْنِ عَبَّاسٍ، وأَبِي هُرَيْرَةَ وقُتَيْلَةَ، وعَبْدِ الرَّحْمٰنِ بْنِ سَمُرَةَ.

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ أَبُو عِيسَى:] قَالَ أَبُو عُبَيْدٍ: مَعْنَى قَوْلِهِ ولَا آثِرًا، يَقُولُ: لَا آثُرُه عَنْ غَيْرِي، يَقُولُ: لَمْ أَذْكُرْهُ عَنْ غَيْرِي.

تخريج: متفق عليه، أخرجه مسلم، الأيمان، باب النهي عن الحلف بغير الله تعالى، ح:١٦٤٦ من حديث سفيان بن عيينة والبخاري، ح:٦٦٤٧ من حديث الزهري به * وفي الباب عن ثابت بن الضحاك [يأتي:١٥٤٣] وابن عباس [أبو داود، ح:٣٣٢٢] وأبي هريرة [يأتي:١٥٤٥] وقتيلة [النسائي:٧/٦، ح:٣٨٠٤ وأحمد:٦/ ٣٧١] وعبدالرحمن بن سمرة [تقدم:١٥٢٩].

Comments:

Taking an oath only by Allāh is lawful. Taking an oath by other than Allāh is unlawful.

1534. Ibn 'Umar narrated that the Messenger of Allāh ﷺ came across 'Umar while he was on his mount, and he was swearing by his father. So the Messenger of Allāh ﷺ said: "Verily Allāh prohibits you from swearing by your fathers. So let the one who swears, swear by Allāh, or be silent." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٣٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدَةُ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ أَدْرَكَ عُمَرَ وهُوَ فِي رَكْبٍ، وهُوَ يَحْلِفُ بِأَبِيهِ، فَقَالَ رَسُولُ اللهِ ﷺ: «إِنَّ اللهَ يَنْهَاكُمْ أَنْ تَحْلِفُوا بِآبَائِكُمْ، لِيَحْلِفْ حَالِفٌ بِاللهِ أَوْ لِيَسْكُتْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الأيمان، باب النهي عن الحلف بغير الله تعالى، ح:١٦٤٦/ ٤ من حديث عبيدالله بن عمرو البخاري، ح:٦٦٤٦ من حديث نافع به.

Comments:

This narration strictly prohibits taking an oath by other than Allāh. In the end of this narration the Prophet ﷺ generalized the command by saying either take the oath by Allāh or keep quiet. There is no other oath except the oath by Allāh.

Chapter 9. What Has Been Related About 'Whoever Swears By Other Than Allāh, He Has Committed *Shirk*'

(المعجم ٩) - بَابُ [مَا جَاءَ فِي أَنَّ مَنْ حَلَفَ بِغَيْرِ اللهِ فَقَدْ أَشْرَكَ] (التحفة ٩)

1535. Sa'd bin 'Ubaidah narrated that Ibn 'Umar heard a man saying: "No by the Ka'bah" so Ibn 'Umar said: "Nothing is sworn by other than Allāh, for I heard the Messenger of Allāh ﷺ say: 'Whoever swears by other than Allāh, he has committed disbelief or *Shirk*.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

According to some of the people of knowledge, the explanation of this *Ḥadīth* is that his saying: "He has committed disbelief or *Shirk*" is to demonstrate its severity. The proof for that is the *Ḥadīth* of Ibn 'Umar: That the Prophet ﷺ heard 'Umar saying: 'By my father! By my father!' So he ﷺ said: "Verily Allāh prohibits you from swearing by your fathers." As well as the *Ḥadīth* of Abū Hurairah from the Prophet ﷺ, that he ﷺ said: "Whoever says in his oath: 'By Al-Lāt! By Al-'Uzza!' Then let him say: '*Lā Ilāha Illallāh* (None has the right to be worshipped but Allāh)'."

[Abū 'Eīsā said:] This is similar to what has been reported from the Prophet ﷺ saying: "Indeed *Riyā'* is *Shirk*."

Some of the people of knowledge explained this *Āyah*: So whoever hopes in meeting his Lord, then let him work righteous deeds[1] and

١٥٣٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو خَالِدٍ الْأَحْمَرُ عَنِ الْحَسَنِ بْنِ عُبَيْدِ اللهِ، عَنْ سَعْدِ ابْنِ عُبَيْدَةَ: أَنَّ ابْنَ عُمَرَ سَمِعَ رَجُلًا يَقُولُ: لَا وَالْكَعْبَةِ، فَقَالَ ابْنُ عُمَرَ: لَا يُحْلَفُ بِغَيْرِ اللهِ، فَإِنِّي سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ حَلَفَ بِغَيْرِ اللهِ فَقَدْ كَفَرَ أَوْ أَشْرَكَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

وتَفْسِيرُ هٰذَا الحَدِيثِ عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ: أَنَّ قَوْلَهُ: فَقَدْ كَفَرَ أَوْ أَشْرَكَ، عَلَى التَّغْلِيظِ. والْحُجَّةُ في ذٰلِكَ حَدِيثُ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ سَمِعَ عُمَرَ يَقُولُ: وأَبِي! وأَبِي!، فَقَالَ: «أَلَا إِنَّ اللهَ يَنْهَاكُمْ أَنْ تَحْلِفُوا بِآبَائِكُمْ». وحَدِيثُ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «مَنْ قَالَ فِي حَلِفِهِ واللَّاتِ والعُزَّى! فَلْيَقُلْ لَا إِلٰهَ إِلَّا اللهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا مِثْلُ ما رُوِيَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «إِنَّ الرِّيَاءَ شِرْكٌ».

وقَدْ فَسَّرَ بَعْضُ أَهْلِ الْعِلْمِ هٰذِهِ الآيَةَ: ﴿فَمَن كَانَ يَرْجُوا لِقَآءَ رَبِّهِۦ فَلْيَعْمَلْ عَمَلًا صَـٰلِحًا﴾ الآيَة [الكهف: ١١٠] قَالَ: لَا يُرَائِي.

[1] *Al-Kahf* 18:110.

they said it means: "Do not commit *Riyā'*."

تخريج: [إسناده صحيح] وأخرجه أبو داود، الأيمان والنذور، باب كراهية الحلف بالآباء، ح:٣٢٥١ من حديث الحسن بن عبيدالله به وصححه ابن حبان، ح:١١٧٧ والحاكم:٤/٢٩٧ والذهبي سعد بن عبيدة سمعه من ابن عمر عند البيهقي:١٠/٢٩ ورواه عن أبي عبدالرحمن السلمي عنه به والطريقان محفوظان.

Comments:

Intentionally taking an oath by false gods is a pure act of polytheism and whoever takes an oath by a false god as habit from the period of *Jahiliyyah*, he should say *"Lā ilāha illallāh"* - none has the right to be worshipped but Allāh.

Chapter 10. (What Has Been Related) About One Who Takes An Oath To Walk And He Is Not Able To

(المعجم ١٠) - بَابُ [مَا جَاءَ] فِيمَنْ يَحْلِفُ بِالْمَشْيِ وَلَا يَسْتَطِيعُ (التحفة ١٠)

1536. Anas narrated: "A woman vowed to walk to the House of Allāh, so the Prophet ﷺ was asked about that, and he said: 'Verily Allāh is in no need of her walking, order her to ride.'" **(*Ṣaḥīḥ*)**

[He said:] There are narrations on this topic from Abū Hurairah, 'Uqbah bin 'Āmir and Ibn 'Abbās.

[Abū 'Eīsā said:] The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth* [from this route].

١٥٣٦ - حَدَّثَنَا عَبْدُ الْقُدُّوسِ بْنُ مُحَمَّدٍ الْعَطَّارُ الْبَصْرِيُّ: حَدَّثَنَا عَمْرُو بْنُ عَاصِمٍ عَنْ عِمْرَانَ الْقَطَّانِ، عَنْ حُمَيْدٍ، عَنْ أَنَسٍ قَالَ: نَذَرَتِ امْرَأَةٌ أَنْ تَمْشِيَ إِلَى بَيْتِ اللهِ، فَسُئِلَ نَبِيُّ اللهِ ﷺ، عَنْ ذٰلِكَ، فَقَالَ: «إِنَّ اللهَ لَغَنِيٌّ عَنْ مَشْيِهَا، مُرُوهَا فَلْتَرْكَبْ».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وعُقْبَةَ بْنِ عامِرٍ، وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ [مِنْ هٰذَا الْوَجْهِ].

تخريج: [صحيح] وللحديث شواهد عند البخاري، ح:١٨٦٦ ومسلم، ح:١٦٤٤/١١، ١٢ وغيرهما *وفي الباب عن أبي هريرة [مسلم، ح:١٦٤٣] وعقبة بن عامر [يأتي:١٥٤٤] وابن عباس [أبو داود، ح:٣٢٩٥].

1537. Anas narrated: "The Prophet ﷺ passed by an old man walking (while supported) between his two sons, so he said: 'What is the matter with this one?' They said: "O Messenger of Allāh! He vowed to walk.' He said: 'Verily Allāh [the Mighty and Sublime] is

١٥٣٧ - حَدَّثَنَا أَبُو مُوسَى مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا خالِدُ بْنُ الْحَارِثِ: حَدَّثَنَا حُمَيْدٌ عَنْ ثابِتٍ، عَنْ أَنَسٍ قَالَ: مَرَّ النَّبِيُّ ﷺ بِشَيْخٍ كَبِيرٍ يَتَهَادَى بَيْنَ ابْنَيْهِ، فَقَالَ: «مَا بَالُ هٰذَا؟» قَالُوا: [يَا رَسُولَ اللهِ] نَذَرَ أَنْ

in no need of this person punishing himself.'" He said: "So he ordered him to ride." (*Ṣaḥīḥ*)

(Another chain) from Anas that the Messenger of Allāh ﷺ saw a man, and he mentioned similarly. This *Ḥadīth* is *Ṣaḥīḥ*, and this is acted upon according to some of the people of knowledge. They say that when a woman vows to walk, she is to ride and offer a sheep as *Hadī* (sacrifice as atonement).

يَمْشِيَ، قَالَ: «إِنَّ اللهَ [عَزَّ وجَلَّ] لَغَنِيٌّ عَنْ تَعْذِيبِ هٰذَا نَفْسَهُ»، قَالَ: فَأَمَرَهُ أَنْ يَرْكَبَ.

حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ: أَنَّ رَسُولَ اللهِ ﷺ رَأَى رَجُلًا فَذَكَرَ نَحْوَهُ. هٰذَا حَدِيثٌ صَحِيحٌ والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، وقَالُوا: إذا نَذَرَتِ الْمَرْأَةُ أَنْ تَمْشِيَ فَلْتَرْكَبْ ولْتُهْدِ شَاةً.

تخريج: [صحيح] وأخرجه النسائي: ٧/ ٣٠، ح: ٣٨٨٤ (الأيمان والنذور، باب ما الواجب على من أوجب على نفسه نذرًا فعجز عنه؟) عن محمد بن المثنى به رواه البخاري، ح: ١٨٦٥ ومسلم، ح: ١٦٤٢ من حديث حميد الطويل به، وحديث حميد عن أنس عند النسائي، ح: ٣٨٨٥.

Comments:

If someone vows to perform *Ḥajj* or *'Umrah* on foot, according to Ibn Al-Mundhir it is unanimously agreed upon that he has to fulfill his vow. Imām Mālik, Ash-Shāfi'ī, Awzā'ī, and Aḥmad support this view. If he cannot walk he is allowed to ride. In the view of Imām Ash-Shāfi'ī and Aḥmad, if he rides he will have to sacrifice an animal as atonement.

Chapter 11. About Vows Being Disliked

(المعجم ١١) - بَابٌ: فِي كَرَاهِيَةِ النُّذُورِ (التحفة ١١)

1538. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Do not vow, for the vow does not prevent what is decreed at all, and it only causes the miser to spend (of his wealth)." (*Ṣaḥīḥ*)

[He said:] There is something about this from Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others, they disliked vows. 'Abdullāh bin Al-Mubārak said: "It is disliked to

١٥٣٨ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ ابْنُ مُحَمَّدٍ عَنِ الْعَلَاءِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا تَنْذِرُوا، فَإِنَّ النَّذْرَ لَا يُغْنِي مِنَ الْقَدَرِ شَيْئًا، وإِنَّمَا يُسْتَخْرَجُ بِهِ مِنَ الْبَخِيلِ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ كَرِهُوا النَّذْرَ. وقَالَ عَبْدُ اللهِ بْنُ

make vows related to obedience and disobedience. So if he vows to do some obedience and fulfills it, then he will get a reward, while it was disliked for him to make a vow."

الْمُبَارَكِ: مَعْنَى الكَرَاهَةِ فِي النَّذْرِ فِي الطَّاعَةِ وَالْمَعْصِيَةِ، فَإِنْ نَذَرَ الرَّجُلُ بِالطَّاعَةِ فَوَفَّى بِهِ فَلَهُ فِيهِ أَجْرٌ وَيُكْرَهُ لَهُ النَّذْرُ.

تخريج: وأخرجه مسلم، النذر، باب النهي عن النذر، وأنه لا يرد شيئًا، ح:١٦٤٠ عن قتيبة به * وفي الباب عن ابن عمر [البخاري، ح:٦٦٠٨ ومسلم، ح:١٦٣٩].

Comments:

Even though Allāh has ordered fulfilling vows, this narration proves that taking a vow is disliked. So just as it is praiseworthy to pay back a loan quickly—yet no one claims a reward is due for merely taking a loan—then in the same way, taking a vow is not praiseworthy, but fulfilling it is required and praise—worthy in the event of its occurrence just as in the case of a loan.

Chapter 12. (What Has Been Related) About Fulfilling Vows

(المعجم ١٢) - **بَابُ [مَا جَاءَ] فِي وَفَاءِ النَّذْرِ** (التحفة ١٢)

1539. 'Umar narrated: "I said, 'O Messenger of Allāh! I had vowed to perform *I'tikāf* in *Al-Masjid Al-Ḥarām* for a night during the era of *Jāhiliyyah*.' He said: 'Fulfill your vow.'" (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Abdullāh bin 'Amr, and Ibn 'Abbās.

[Abū 'Eīsā said:] The *Ḥadīth* of 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

Some of the people of knowledge followed this *Ḥadīth*. They said that when a man accepts Islām and he had (previously) made a vow to do some act of obedience, then he is obliged to fulfill it.

Some of the people of knowledge among the Companions of the Prophet ﷺ, and others, said that there is no *I'tikāf* without fasting. Others among the people of knowledge said that it is not

١٥٣٩ - **حَدَّثَنَا** إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا يَحْيى بْنُ سَعِيدٍ الْقَطَّانُ عَنْ عُبَيْدِ اللهِ ابْنِ عُمَرَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ، عَنْ عُمَرَ قَالَ: [قُلْتُ:] يَا رَسُولَ اللهِ، إِنِّي كُنْتُ نَذَرْتُ أَنْ أَعْتَكِفَ لَيْلَةً فِي الْمَسْجِدِ الْحَرَامِ فِي الجاهِلِيَّةِ، قَالَ: «أَوفِ بِنَذْرِكَ».

[قَالَ:] وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو، وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] وحَدِيثُ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ، وقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلى هٰذَا الحَدِيثِ، قَالُوا إذا أَسْلَمَ الرَّجُلُ وعَلَيْهِ نَذْرُ طاعَةٍ فَلْيَفِ بِهِ.

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ: لَا اعْتِكَافَ إِلَّا بِصَوْمٍ. وقَالَ آخَرُونَ مِنْ أَهْلِ الْعِلْمِ: لَيْسَ عَلَى الْمُعْتَكِفِ

required for the person performing *I'tikāf* to fast, unless he made fasting obligatory upon himself. They used the *Ḥadīth* of 'Umar as proof, in which he had vowed during *Jāhiliyyah* to perform *I'tikāf* for a night, and the Prophet ﷺ ordered him to fulfill it. This is the view of Aḥmad and Isḥāq.

صَوْمٌ إِلَّا أَنْ يُوجِبَ عَلَى نَفْسِهِ صَوْمًا، واحْتَجُّوا بِحَدِيثِ عُمَرَ أَنَّهُ نَذَرَ أَنْ يَعْتَكِفَ لَيْلَةً فِي الجاهِلِيَّةِ، فَأَمَرَهُ النَّبِيُّ ﷺ بالوَفَاءِ. وهُوَ قَوْلُ أَحْمَدَ، وإِسْحَاقَ.

تخريج: متفق عليه وأخرجه مسلم، الأيمان، باب نذر الكافر، وما يفعل فيه إذا أسلم، ح:١٦٥٦ من حديث يحيى القطان والبخاري، ح:٢٠٤٢ من حديث عبيدالله بن عمر به * وفي الباب عن عبدالله بن عمرو [أبوادود، ح:٣٣١٢] وابن عباس [أبو داود، ح:٣٣٢٢].

Comments:

Most of the scholars agree that even a vow of a virtuous deed brings no benefit to a disbeliever. This narration proves that if a disbeliever vows for something good and virtuous in nature, he will have to fulfill his vow if he accepts Islam.

Chapter 13. [What Has Been Related] About How The Prophet ﷺ Would Swear

(المعجم ١٣) - بَابُ [مَا جَاءَ] كَيْفَ كَانَ يَمِينُ النَّبِيِّ ﷺ (التحفة ١٣)

1540. Sālim bin 'Abdullāh narrated from his father (Ibn 'Umar) who said: "The Messenger of Allāh ﷺ often would swear with this oath: 'No! By the Changer of the Hearts.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٤٠ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ وعَبْدُ اللهِ بْنُ جَعْفَرٍ، عَنْ مُوسَى بْنِ عُقْبَةَ، عَنْ سالِمِ بْنِ عَبْدِ اللهِ، عَنْ أَبِيهِ قَالَ: كَثِيرًا ما كانَ رَسُولُ اللهِ ﷺ يَحْلِفُ بِهٰذِهِ اليَمِينِ: «لَا وَمُقَلِّبِ القُلُوبِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه البخاري، القدر، باب: يحول بين المرء وقلبه، ح:٦٦١٧ و٧٣٩١ من حديث ابن المبارك به.

Comments:

It is lawful to swear by Allāh's Names and Attributes. It is Allāh only Who changes the state of the heart and only He brings changes in the attitudes of people. (*Al-Mughnī* v. 13. p. 452-453.)

Chapter 14. (What Has Been Related) About The Reward For Freeing A Slave

(المعجم ١٤) - بَابُ [مَا جَاءَ] فِي ثَوَابِ مَنْ أَعْتَقَ رَقَبَةً (التحفة ١٤)

1541. Abū Hurairah narrated: "I heard the Messenger of Allāh ﷺ saying: 'Whoever frees a believing slave, then Allāh frees a limb from the Fire for each of his limbs, such that he frees his private parts in lieu of his private parts.'" (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from 'Āishah, 'Amr bin 'Abasah, Ibn 'Abbās, Wāthilah bin Al-Ashqa', Abū Umāmah, 'Uqbah bin 'Āmir, [and Ka'b bin Murrah].

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth* from this route. Ibn Al-Hād's (a narrator in the chain of this *Ḥadīth*) name is Yazīd bin 'Abdullāh bin Usāmah bin Al-Hād, from Al-Madīnah, and he is trustworthy. Mālik bin Anas and more than one of the people of knowledge reported from him.

١٥٤١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ الهادِ، عَنْ عُمَرَ بْنِ عَلِيِّ بْنِ الْحُسَيْنِ [بْنِ عَلِيِّ بْنِ أَبِي طالِبٍ]، عَنْ سَعِيدِ بْنِ مَرْجانَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ أَعْتَقَ رَقَبَةً مُؤْمِنَةً أَعْتَقَ اللهُ مِنْهُ بِكُلِّ عُضْوٍ مِنْهُ عُضْوًا مِنَ النَّارِ، حَتَّى يُعْتِقَ فَرْجَهُ بِفَرْجِهِ».

[قَالَ:] وفِي الْبَابِ عَنْ عائِشَةَ، وعَمْرِو ابْنِ عَبَسَةَ، وابْنِ عَبَّاسٍ، وواثِلَةَ بْنِ الْأَسْقَعِ، وأَبِي أُمَامَةَ، وعُقْبَةَ بْنِ عامِرٍ [وكَعْبِ بْنِ مُرَّةَ].

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. وابْنُ الهادِ اسْمُهُ: يَزِيدُ بْنُ عَبْدِ اللهِ بْنِ أُسامَةَ ابْنِ الْهَادِ وهُوَ مَدَنِيٌّ ثِقَةٌ. وقَدْ رَوَى عَنْهُ مالِكُ بْنُ أَنَسٍ وغَيْرُ واحِدٍ مِنْ أَهْلِ الْعِلْمِ.

تخريج: متفق عليه، أخرجه مسلم، العتق، باب فضل العتق، ح:١٥٠٩/٢٣ عن قتيبة والبخاري، ح: ٦٧١٥ من حديث سعيد بن مرجانة به * وفي الباب عن عائشة [الطحاوي في مشكل الآثار: ١/ ٣١٠] وعمرو بن عبسة (أبو نجيح) [أبو داود، ح:٣٩٦٦] وابن عباس [الطبراني في الكبير: ١٠/ ٣٣١، ٣٣٢، ح: ١٠٦٤٠، ١٠٦٤١ وسنده ضعيف] وواثلة بن الأسقع [أبو داود، ح: ٣٩٦٤] وأبي أمامة [يأتي: ١٥٤٧] وعقبة بن عامر [أحمد: ٤/ ١٤٧، ١٥٠] وكعب بن مرة [أبو داود، ح: ٣٩٦٧].

Comments:

This narration suggests that an honest and physically fit slave should be freed in expiation for breaking an oath. This will cause freedom of every limb of the person who manumits him from the Hellfire.

Chapter 15. (What Has Been Related) About A Man Who Slaps His Servant

(المعجم ١٥) - بَابُ [مَا جَاءَ] فِي الرَّجُلِ يَلْطِمُ خَادِمَهُ (التحفة ١٥)

1542. Suwaid bin Muqarrin Al-Muzanī said: "We were seven brothers without a servant except one, and one of us slapped her, so the Prophet ﷺ ordered us to free her." (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Ibn 'Umar.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

This *Ḥadīth* has been reported by more than one from Ḥuṣain bin 'Abdur-Raḥmān by others, and some of them mentioned in it: "Slapped her on her face."

١٥٤٢ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا الْمُحَارِبِيُّ عَنْ شُعْبَةَ، عَنْ حُصَيْنٍ، عَنْ هِلَالِ ابْنِ يَسَافٍ، عَنْ سُوَيْدِ بْنِ مُقَرِّنٍ الْمُزَنِيِّ قَالَ: لَقَدْ رَأَيْتُنَا سَبْعَةَ إِخْوَةٍ مَا لَنَا خَادِمٌ إِلَّا وَاحِدَةٌ فَلَطَمَهَا أَحَدُنَا، فَأَمَرَنَا النَّبِيُّ ﷺ أَنْ نُعْتِقَهَا.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وقَدْ رَوَى غَيْرُ واحِدٍ هٰذَا الحَدِيثَ عَنْ حُصَيْنِ بْنِ عَبْدِ الرَّحْمٰنِ، وذَكَرَ بَعْضُهُمْ فِي هٰذَا الحَدِيثِ فَقَالَ: لَطَمَهَا عَلَى وَجْهِهَا.

تخريج: وأخرجه مسلم، الأيمان، باب صحبة المماليك، وكفارة من لطم عبده، ح:١٦٥٨ من حديث شعبة به * وفي الباب عن ابن عمر [مسلم، ح:١٦٥٧].

Comments:

Word *'Khādim'* is used both for a male or female slave or servant. This narration shows that a slave or a slave woman should be treated with kindness. He or she should not be abused.

Chapter 16. What Has Been Related About It Being Disliked To Swear By A Religion Other Than Islām

(المعجم ١٦) - بَابُ [مَا جَاءَ فِي كَرَاهِيَةِ الْحَلِفِ بِغَيْرِ مِلَّةِ الْإِسْلَامِ] (التحفة ١٦)

1543. Thābit bin Aḍ-Ḍaḥḥāk narrated that the Messenger of Allāh ﷺ said: "Whoever swears by a religion other than Islām while lying, then he is as he said." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

The people of knowledge differed about this: When a man swears by

١٥٤٣ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْحَاقُ بْنُ يُوسُفَ الْأَزْرَقُ عَنْ هِشَامٍ الدَّسْتَوَائِيِّ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي قِلَابَةَ، عَنْ ثَابِتِ بْنِ الضَّحَّاكِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ حَلَفَ بِمِلَّةٍ غَيْرِ الْإِسْلَامِ كَاذِبًا فَهُوَ كَمَا قَالَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

صَحِيحٌ.

وقَدِ اخْتَلَفَ أَهْلُ الْعِلْمِ فِي هٰذَا: إِذا حَلَفَ الرَّجُلُ بِمِلَّةٍ سِوَى الإِسْلَام، فَقَالَ: هُوَ يَهُودِيٌّ أَوْ نَصْرَانِيٌّ إِنْ فَعَلَ كذا وكذا، فَفَعَلَ ذٰلِكَ الشَّيءَ، فَقَالَ بَعْضُهُمْ: قَدْ أَتَى عَظِيمًا ولَا كَفَّارَةَ عَلَيْهِ. وهُوَ قَوْلُ أَهْلِ الْمَدِينَةِ. وبِهِ يَقُولُ مالِكُ بْنُ أَنَسٍ. وإِلى هٰذَا الْقَوْلِ ذَهَبَ أَبُو عُبَيْدٍ. وقَالَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ والتَّابِعِينَ وغَيْرِهِمْ: عَلَيْهِ فِي ذٰلِكَ الكَفَّارَةُ. وهُوَ قَوْلُ سُفْيَانَ، وأَحْمَدَ، وإِسْحَاقَ.

a religion other than Islam, saying he is a Jew or a Christian if he were to do this or that. Then he does that thing. Some of them said that he has committed an atrocity and there is no atonement due from him. This is the view of the people of Al-Madīnah, and it is the saying of Mālik bin Anas, and Abū 'Ubaid followed this view.

Some of the people of knowledge among the Companions of the Prophet ﷺ, the *Tābi'īn*, as well as others, said that he has to atone for that. This is the view of Sufyān, Aḥmad and Isḥāq.

تخريج: متفق عليه، وأخرجه مسلم، الإيمان، باب بيان غلظ تحريم قتل الإنسان نفسه ... إلخ، ح:١١٠/١٧٦ من حديث هشام الدستوائي، والبخاري، ح:٦٠٤٧ من حديث يحيى بن أبي كثير به وانظر، ح:١٥٢٧.

Comments:

If a Muslim swears—when taking an oath—by another religion and says if he does this he would be a Christian or a Jew, then according to this narration, he surely is one of them. But if he vows to show the severity and abomination of the deed, even then it is strictly prohibited and strongly disapproved.

(المعجم ١٧) - بَابُ [مَا جَاءَ فِيمَنْ نَذَرَ أَنْ يَحُجَّ مَاشِيًا] (التحفة ١٧)

Chapter 17. What Has Been Related About One Who Vows To Perform *Ḥajj* By Walking

١٥٤٤ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلانَ: حَدَّثَنَا وَكِيعٌ عَنْ سُفْيَانَ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ عُبَيْدِ اللهِ بْنِ زَحْرٍ، عَنْ أَبِي سَعِيدٍ الرُّعَيْنِيِّ، عَنْ عَبْدِ اللهِ بْنِ مالِكٍ الْيَحْصَبِيِّ، عَنْ عُقْبَةَ بْنِ عامِرٍ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ؛ إِنَّ أُخْتِي نَذَرَتْ أَنْ تَمْشِيَ إِلى الْبَيْتِ حافِيَةً غَيْرَ مُخْتَمِرَةٍ، فَقَالَ النَّبِيُّ ﷺ: «إِنَّ اللهَ لَا يَصْنَعُ بِشَقَاءِ أُخْتِكَ شَيْئًا فَلْتَرْكَبْ ولْتَخْتَمِرْ وَلْتَصُمْ ثَلاثَةَ أَيَّامٍ».

1544. 'Uqbah bin 'Āmir narrated: "I said: 'O Messenger of Allāh! My sister vowed that she would walk to the House barefoot and without any *Khimār* (covering).' The Prophet ﷺ said: 'Verily Allāh will not do anything with the misery of your sister. She should ride, and cover, and fast three days.'" ***(Ḍa'īf)***

[He said:] There is something on this topic from Ibn 'Abbās.

[Abū 'Eīsā said:] This *Ḥadīth* is

Ḥasan. This is acted upon according to the people of knowledge, and it is the view of Aḥmad and Isḥāq.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ.
[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ حَسَنٌ.
والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ.
وهُوَ قَوْلُ أَحْمَدَ، وإِسْحَاقَ.

تخريج: [**إسناده ضعيف**] وأخرجه أبو داود، الأيمان والنذور، باب من رأى عليه كفارة إذا كان في معصية، ح:٣٢٩٣ وابن ماجه، ح:٢١٣٤ والنسائي، ح:٣٨٤٦ من حديث يحيى بن سعيد به * عبيدالله بن زحر: ضعيف ضعفه الجمهور وله متابعة ضعيفة عند أحمد: ٤/١٤٧ * وفي الباب عن ابن عباس [لعله يشير إلى حديث أبي داود، ح:٣٣٢٢].

Chapter 18. The Mention Of What Eliminates Swearing By Al-Lāt And Al-'Uzza

(المعجم ١٨) - بَابُ [ذِكْرِ مَا يُلْغِي الْحَلِفَ بِاللَّاتِ وَالْعُزَّى] (التحفة ١٨)

1545. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever among you swears, saying in his oath: 'By Al-Lāt! By Al-'Uzza!' Then let him say '*Lā ilāha illallāh* (None has the right to the worshipped but Allāh).' And whoever says: 'Come let me gamble with you!' Then let him give in charity." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Abū Al-Mughīrah is Al-Khawlānī, Al-Ḥimṣī, and his name is 'Abdul-Quddūs bin Al-Ḥajjāj.

١٥٤٥ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا أَبُو الْمُغِيرَةِ: حَدَّثَنَا الْأَوزَاعِيُّ: حَدَّثَنَا الزُّهْرِيُّ عَنْ حُمَيْدِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ حَلَفَ مِنْكُمْ فَقَالَ فِي حَلِفِهِ واللَّاتِ والعُزَّى! فَلْيَقُلْ: لَا إِلَهَ إِلَّا اللهُ، ومَنْ قَالَ: تَعَالَ أُقَامِرْكَ فَلْيَتَصَدَّقْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو الْمُغِيرَةِ: هُوَ الْخَوْلَانِيُّ الْحِمْصِيُّ، واسْمُهُ عَبْدُ الْقُدُّوسِ بْنُ الْحَجَّاجِ.

تخريج: متفق عليه، وأخرجه البخاري، الأدب، باب من لم ير إكفار من قال ذلك متأولاً أو جاهلاً، ح:٦١٠٧ عن إسحاق بن منصور ومسلم، ح:١٦٤٧ من حديث الأوزاعي به.

Comments:

Before the advent of Islam, the people of Arabia used to take oaths by 'Al-Lāt' and 'Al-'Uzzā', and after accepting Islam, sometimes while taking an oath they uttered these words unintentionally. For this reason they were advised to say *"lā ilāha illallāh"* (none has the right to be worshipped but Allāh), to explain and confirm their faith.

Chapter 19. (What Has Been Related) About Fulfilling The Vow Of The Deceased

(المعجم ١٩) - بَابُ [مَا جَاءَ] فِي قَضَاءِ النَّذْرِ عَنِ الْمَيِّتِ (التحفة ١٩)

1546. Ibn 'Abbās narrated that Sa'd bin 'Ubādah asked the Messenger of Allāh ﷺ about a vow that was due from his mother, who died before fulfilling it. The Prophet ﷺ said: "Fulfill it for her." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٤٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ شِهَابٍ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ عُتْبَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ سَعْدَ بْنَ عُبَادَةَ اسْتَفْتَى رَسُولَ اللهِ ﷺ فِي نَذْرٍ كَانَ عَلَى أُمِّهِ تُوُفِّيَتْ قَبْلَ أَنْ تَقْضِيَهُ، فَقَالَ النَّبِيُّ ﷺ: «اقْضِهِ عَنْهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الحيل، باب: في الزكاة وأن لا يفرق بين مجتمع، ولا يجمع بين متفرق خشية الصدقة، ح:٦٩٥٩ ومسلم، ح:١٦٣٨ عن قتيبة به.

Comments:

According to the view of most of the scholars, if the vow is regarding money, and the deceased had left enough inheritance, it is an obligation upon the heirs to fulfill his vow. But if the inheritance is not enough, the heirs should try to fulfill his vow, but it is not an obligation. If the vow is about fasting, freeing a slave, sitting for *I'tikaf* or performing *Ḥajj* or *'Umrah*, they should try to fulfill it, though it is not an obligation on the heirs. According to the *Ẓāhiriyah* it is an obligation. (See for details *Al-Mughnī* v. 13. p. 655-657.)

Chapter 20. What Has Been Related About The Virtue Of Freeing Slaves

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي فَضْلِ مَنْ أَعْتَقَ (التحفة ٢٠)

1547. Abū Umāmah, and other than him from the Companions of the Prophet ﷺ, narrated that the Prophet ﷺ said: "Any Muslim man who frees a Muslim man, then it is his salvation from the Fire – each of his limbs suffices for a limb of himself. And any Muslim man that frees two Muslim women, they are his salvation from the Fire – each of their limbs suffices for a limb of

١٥٤٧ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ الْأَعْلَى: حَدَّثَنَا عِمْرَانُ بْنُ عُيَيْنَةَ - هُوَ أَخُو سُفْيَانَ بْنِ عُيَيْنَةَ - عَنْ حُصَيْنٍ، عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ، عَنْ أَبِي أُمَامَةَ وَغَيْرِهِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ عَنِ النَّبِيِّ ﷺ قَالَ: «أَيُّمَا امْرِئٍ مُسْلِمٍ أَعْتَقَ امْرَءًا مُسْلِمًا كَانَ فِكَاكَهُ مِنَ النَّارِ يُجْزِئُ كُلُّ عُضْوٍ مِنْهُ عُضْوًا مِنْهُ، وَأَيُّمَا

himself. And any Muslim woman that frees a Muslim woman, then she is her salvation from the Fire – each of her limbs suffices for a limb of herself." (**Ṣaḥīḥ**)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route.

[Abū 'Eīsā said: In this *Ḥadīth* is the proof that freeing males is more virtuous for a man than freeing females, due to the saying of the Messenger of Allāh ﷺ: "Any Muslim man who frees a Muslim man, then it is his salvation from the Fire – each of his limbs suffices for a limb of himself." And the *Ḥadīth* is correct in its routes of transmission.]

امْرِىءٍ مُسْلِمٍ أَعْتَقَ امْرَأَتَيْنِ مُسْلِمَتَيْنِ كانَتَا فِكَاكَهُ مِنَ النَّارِ، يُجْزِىءُ كُلُّ عُضْوٍ مِنْهُمَا عُضْوًا مِنْهُ. وأَيُّمَا امْرَأَةٍ مُسْلِمَةٍ أَعْتَقَتِ امْرَأَةً مُسْلِمَةً كانَتْ فِكَاكَهَا مِنَ النَّارِ، يُجْزِىءُ كُلُّ عُضْوٍ مِنْهَا عُضْوًا مِنْهَا».

[قَالَ أَبُو عِيسَى]: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

[قَالَ أَبُو عِيسَى: وفِي الْحَدِيثِ مَا يَدُلُّ عَلَى أَنَّ عِتْقَ الذُّكُورِ لِلرِّجالِ أَفْضَلُ مِنْ عِتْقِ الْإِناثِ لِقَوْلِ رَسُولِ اللهِ ﷺ: «مَنْ أَعْتَقَ امْرَءًا مُسْلِمًا كانَ فِكَاكَهُ مِنَ النَّارِ يُجْزِئُ كُلُّ عُضْوٍ مِنْهُ عُضْوًا مِنْهُ» الحَدِيثُ صَحَّ فِي طُرُقِهِ].

تخريج: **[صحيح]** وله شواهد كثيرة وانظر، ح: ١٥٤١.

Comments:

This narration is a proof that manumission of a slave is a cause of freedom from the Hellfire for a Muslim. Freedom of a slave will not save an infidel from the Hellfire. Freedom of a male slave brings more reward than freeing a slave woman.

In the Name of Allāh, the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

19. The Chapters On Military Expeditions From The Messenger Of Allāh ﷺ

(المعجم ١٩) - أَبْوَابُ السِّيَرِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٧)

Chapter 1. What Has Been Related About Calling (To Islām) Before Fighting

(المعجم ١) - بَابُ مَا جَاءَ فِي الدَّعْوَةِ قَبْلَ الْقِتَالِ (التحفة ١)

1548. Abū Al-Bakhtarī narrated: "An army from the armies of the Muslims, whose commander was Salmān Al-Fārisī, besieged one of the Persian castles. They said: 'O Abū 'Abdullāh! Should we charge them?' He said: 'Leave me to call them (to Islām) as I heard the Messenger of Allāh ﷺ call them.' So Salmān went to them and said: 'I am only a man from among you, a Persian, and you see that the 'Arabs obey me. If you become Muslims then you will have the likes of what we have, and from you will be required that which is required from us. If you refuse, and keep your religion, then we will leave you to it, and you will give us the *Jizyah* from your hands while you are submissive' – He said to them in Persian: 'And you are other than praiseworthy' – 'and if you refuse then we will equally resist you.' They said: 'We will not give you the *Jizyah*, we will fight you instead.' So they said: 'O Abū 'Abdullāh! Should we charge

١٥٤٨ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ عَطَاءِ بْنِ السَّائِبِ، عَنْ أَبِي الْبَخْتَرِيِّ: أَنَّ جَيْشًا مِنْ جُيُوشِ الْمُسْلِمِينَ كَانَ أَمِيرُهُمْ سَلْمَانَ الْفَارِسِيَّ حَاصَرُوا قَصْرًا مِنْ قُصُورِ فَارِسَ، فَقَالُوا: يَا أَبَا عَبْدِ اللهِ أَلَا نَنْهَدُ إِلَيْهِمْ، قَالَ: دَعُونِي أَدْعُوهُم كَمَا سَمِعْتُ رَسُولَ اللهِ ﷺ يَدْعُوهُم، فَأَتَاهُم سَلْمَانُ فَقَالَ لَهُمْ: إِنَّمَا أَنَا رَجُلٌ مِنْكُمْ فَارِسِيٌّ تَرَوْنَ الْعَرَبَ يُطِيعُونِي، فَإِنْ أَسْلَمْتُمْ فَلَكُمْ مِثْلُ الَّذِي لَنَا، وعَلَيْكُمْ مِثْلُ الَّذِي عَلَيْنَا، وإِنْ أَبَيْتُمْ إِلَّا دِينَكُم تَرَكْنَاكُمْ عَلَيْهِ، وأَعْطُونَا الْجِزْيَةَ عَنْ يَدٍ وَأَنْتُمْ صَاغِرُونَ - قَالَ: وَرَطَنَ إِلَيْهِمْ بالْفَارِسِيَّةِ وأَنْتُمْ غَيْرُ مَحْمُودِينَ - وإِنْ أَبَيْتُمْ نَابَذْنَاكُمْ عَلَى سَوَاءٍ. قَالُوا: مَا نَحْنُ بِالَّذِي نُعْطِي الْجِزْيَةَ ولَكِنَّا نُقَاتِلُكُمْ. فَقَالُوا: يَا أَبَا عَبْدِ اللهِ؛ أَلَا نَنْهَدُ إِلَيْهِمْ؟ قَالَ: لَا، قَالَ: فَدَعَاهُمْ ثَلَاثَةَ أَيَّامٍ إِلَى مِثْلِ هٰذَا ثُمَّ قَالَ: انْهَدُوا إِلَيْهِمْ، قَالَ: فَنَهَدْنَا إِلَيْهِم

فَفَتَحْنَا ذٰلِكَ الْقَصْرَ.

[قَالَ:] وفِي الْبَابِ عَنْ بُرَيْدَةَ، والنُّعْمَانِ ابْنِ مُقَرِّنٍ، وابْنِ عُمَرَ، وابْنِ عَبَّاسٍ.

وحَدِيثُ سَلْمَانَ حَدِيثٌ حَسَنٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَطَاءِ بْنِ السَّائِبِ.

وسَمِعْتُ مُحَمَّدًا يَقُولُ: أَبُو البَخْتَرِيِّ لَمْ يُدْرِكْ سَلْمَانَ لأَنَّهُ لَمْ يُدْرِك عَلِيًّا، وسَلْمَانُ مات قَبْلَ عَلِيٍّ.

وقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ إِلى هٰذَا، ورَأَوْا أَنْ يُدْعَوا قَبْلَ القِتَالِ، وهُوَ قَوْلُ إِسْحَاقَ بْنِ إِبْرَاهِيمَ. قَالَ: إِنْ تُقُدِّمَ إِلَيْهِمْ في الدَّعْوَةِ فَحَسَنٌ يَكُونُ ذٰلِكَ أَهْيَبَ.

وقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لَا دَعْوَةَ الْيَوْمَ. وقَالَ أَحْمَدُ: لَا أَعْرِفُ الْيَوْمَ أَحَدًا يُدْعَى. وقَالَ الشَّافِعِيُّ: لَا يُقَاتَلُ الْعَدُوُّ حَتَّى يُدْعَوْا إِلَّا أَنْ يَعْجَلُوا، عَنْ ذٰلِكَ، فَإِنْ لَمْ يَفْعَلْ، فَقَدْ بَلَغَتْهُمُ الدَّعْوَةُ.

them?' He said: 'No.'" He said: "So for three days he called them to the same (things), and then he said: 'Charge them.'" He said: "So we charged them, and we conquered that castle." ***(Ḍa'īf)***

[He said:] There are narrations on this topic from An-Nu'mān bin Muqarrin, Ibn 'Umar, and Ibn 'Abbās.

The *Ḥadīth* of Salmān is a *Ḥasan Ḥadīth*, we do not know of it except as a narration of 'Aṭā' bin As-Sā'ib.

I heard Muḥammad saying: "Abū Al-Bakhtarī did not see Salmān because he did not see 'Alī, and Salmān died before 'Alī."

Some of the people of knowledge among the Companions of the Prophet ﷺ and others followed this *Ḥadīth*. They held the view of calling (the enemy to Islām) before fighting. This is the view of Isḥāq bin Ibrāhīm. He said: "If they are first called then that is good, since it will be more intimidating."

Some of the people of knowledge said there is no calling today. Aḥmad said: "I do not know of anyone who calls today." Ash-Shāfi'ī said: "The enemy is not fought until they call them, unless they are in too much of a rush to do that, if it is not done, then the invitation would have been conveyed to them (previously)."

تخريج: [إسناده ضعيف] وأخرجه أحمد:٥/ ٤٤٠، ٤٤١ من حديث عطاء بن السائب به والسند منقطع كما بينه المؤلف رحمه الله * وفي الباب عن بريدة [يأتي:١٦١٧] والنعمان بن مقرن [لم أجده] وابن عمر [مسلم، ح:١٧٣٠] وابن عباس [أحمد:١/ ٢٣١، ٢٣٦ وعبد بن حميد، ح:٦٩٧ والدارمي، ح:٢٤٤٨].

Comments:

Issues and commands of *Jihād* and related topics have been taken from the life of the Prophet ﷺ, so the author has discussed these in this distinct chapter entitled "Chapter of *As-Siyar*" "Military Expeditions".

Chapter 2. The Prohibition Of Attacking If A *Masjid* Is Seen Or The *Adhān* Is Heard

(المعجم ٢) - بَابُ [النَّهْيِ عَنِ الْإِغَارَةِ إِذَا رَأَى مَسْجِدًا وَسَمِعَ أَذَانًا] (التحفة ٢)

1549. Ibn 'Āṣim Al-Muzanī narrated from his father – and he was a Companion –who said: "When the Messenger of Allāh ﷺ dispatched an army or battalion, he would say to them: 'If you see a *Masjid*, or hear someone calling the *Adhān*, then do not kill anyone.'" (*Ḍa'īf*)

This *Ḥadīth* is *Gharīb*, and it is a *Ḥadīth* of Ibn 'Uyainah.

١٥٤٩ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيى العَدَنِيُّ الْمَكِّيُّ - ويُكْنَى بِأَبِي عَبْدِ اللهِ الرَّجُلِ الصَّالِحِ هُوَ ابْنُ أَبِي عُمَرَ -: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِالْمَلِكِ بْنِ نَوْفَلِ بْنِ مُساحِقٍ، عَنِ ابْنِ عِصَامِ الْمُزَنِيِّ، عَنْ أَبِيهِ - وكانَتْ لَهُ صُحْبَةٌ - قَالَ: كانَ رَسُولُ اللهِ ﷺ إذا بَعَثَ جَيْشًا أَوْ سَرِيَّةً يَقُولُ لَهُمْ: «إذا رَأَيْتُمْ مَسْجِدًا أَوْ سَمِعْتُمْ مُؤَذِّنًا فَلَا تَقْتُلُوا أَحَدًا».

هٰذَا حَدِيثٌ غَرِيبٌ، وهُوَ حَدِيثُ ابْنِ عُيَيْنَةَ.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الجهاد، باب: في دعاء المشركين، ح:٢٦٣٥ من حديث سفيان بن عيينة به وحسنه الهيثمي في المجمع:٦/ ٢١٠ وللحديث شواهد عند النسائي في الكبرى والطبراني والبيهقي في الدلائل:٥/ ١١٥ـ١١٨ * ابن عصام لا يعرف حاله.

Comments:

A mosque and call to prayer (*Adhān*) are signs of Islam, and shows the presence of Muslims in that habitation, so the place where there is a *Masjid* or call for prayer is heard, should not be attacked.

Chapter 3. Regarding Nighttime And Surprise Attacks

(المعجم ٣) - بَابٌ: فِي الْبَيَاتِ وَالْغَارَاتِ (التحفة ٣)

1550. Anas narrated: "When the Messenger of Allāh ﷺ set out for Khaibar, he approached it at night and when he came to a people during the night, he would not attack them until morning. So when the morning came, the Jews came out with their shovels and

١٥٥٠ - حَدَّثَنَا الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنِي مالِكُ بْنُ أَنَسٍ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ أَنَّ رَسُولَ اللهِ ﷺ حِينَ خَرَجَ إِلى خَيْبَرَ أَتَاهَا لَيْلًا، وكانَ إذا جَاءَ قَوْمًا بِلَيْلٍ لَمْ يُغِرْ عَلَيْهِمْ حَتَّى يُصْبِحَ، فَلَمَّا أَصْبَحَ خَرَجَتْ يَهُودُ

baskets, then when they saw him, they said: 'Muḥammad! By Allāh Muḥammad has come with the Khamīs (an army).' So the Messenger of Allāh ﷺ said: '*Allāhu Akbar*! Khaibar is destroyed, for whenever we approach the land of a people – then what an evil morning for those who have been warned.'"[1] (*Ṣaḥīḥ*)

بِمَسَاحِيهِمْ ومَكَاتِلِهِمْ، فَلَمَّا رَأَوْهُ قَالُوا: مُحَمَّدٌ، وافَقَ واللهِ مُحَمَّدٌ الخَمِيسَ. فَقَالَ رَسُولُ اللهِ ﷺ: «اللهُ أَكْبَرُ خَرِبَتْ خَيْبَرُ، إِنَّا إذا نَزَلْنَا بِسَاحَةِ قَوْمٍ فَسَاءَ صَبَاحُ المُنْذَرِينَ».

تخريج: وأخرجه البخاري، الجهاد والسير، باب دعاء النبي ﷺ إلى الإسلام والنبوة ... إلخ، ح: ٢٩٤٥ من حديث مالك به وهو في الموطأ: ٢/ ٤٦٨، ٤٦٩.

Comments:

Night attack on enemy forces to defeat and to overpower them at the time of need is legal. Imām Ash-Shāfi'ī and Imām Abū Ḥanīfah and most of the people of knowledge support this view. Unintentional killing of women and children in a night attack is excused but killing them intentionally is not allowed. (*Ṣaḥīḥ Muslim* v.2, p.84-85 and *Al-Mughnī* v. 13 p. 140-)

1551. Abū Ṭalḥah narrated: "When the Prophet ﷺ overtook a people he would stay at the outskirts of their city for three nights." (*Ṣaḥīḥ*)

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. The (previous) narration of Ḥumaid from Anas is a *Ḥasan Ṣaḥīḥ Ḥadīth*. Some of the people of knowledge permitted the surprise attack during the night. Some of them disliked it. Aḥmad and Isḥāq said that there is no harm in attacking the enemy during the night. And the meaning of: "Muḥammad has come with the Khamīs" it means the army is with him.

١٥٥١ - حَدَّثَنَا قُتَيْبَةُ ومُحَمَّدُ بْنُ بَشَّارٍ قَالَا: حَدَّثَنَا مُعَاذُ [بْنُ مُعَاذٍ] عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ، عَنْ أَبِي طَلْحَةَ: أَنَّ النَّبِيَّ ﷺ كَانَ إِذَا ظَهَرَ عَلَى قَوْمٍ أَقَامَ بِعَرْصَتِهِمْ ثَلَاثًا.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وحَدِيثُ حُمَيْدٍ عَنْ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ، وقَدْ رَخَّصَ قَوْمٌ مِنْ أَهْلِ الْعِلْمِ فِي الغَارَةِ بِاللَّيْلِ وأَنْ يُبَيِّتُوا. وكَرِهَهُ بَعْضُهُمْ. وقَالَ أَحْمَدُ وإِسْحَاقُ: لَا بَأْسَ أَنْ يُبَيَّتَ العَدُوُّ لَيْلًا. ومَعْنَى قَوْلِهِ وافَقَ مُحَمَّدٌ الخَمِيسَ: يَعْنِي بِهِ الْجَيْشَ.

تخريج: وأخرجه البخاري، الجهاد والسير، باب من غلب العدو، فأقام على عرصتهم ثلاثًا، ح: ٣٠٦٥ من حديث معاذ به.

[1] See *Aṣ-Ṣāffāt* 37:177, and its explanation in the *Tafsīr* of Ibn Kathīr, and no. 371 of *Al-Bukhārī*.

Chapter 4. Regarding Burning And Destroying

(المعجم ٤) - بَابٌ: فِي التَّحْرِيقِ وَالتَّخْرِيبِ (التحفة ٤)

1552. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ burnt the palm trees of Banī Naḍīr and cut them down at Al-Buwairah. So Allāh revealed: Whatever you cut down of their palm trees, or you left them standing on their trunks, then it was by the permission of Allāh, and in order to disgrace the rebellious."[1] (*Ṣaḥīḥ*)

١٥٥٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ حَرَّقَ نَخْلَ بَنِي النَّضِيرِ وقَطَعَ، وهِيَ البُوَيْرَةُ، فَأَنْزَلَ اللهُ: ﴿مَا قَطَعْتُم مِّن لِّينَةٍ أَوْ تَرَكْتُمُوهَا قَآئِمَةً عَلَىٰٓ أُصُولِهَا فَبِإِذْنِ ٱللَّهِ وَلِيُخْزِىَ ٱلْفَٰسِقِينَ﴾ [الحشر: ٥].

There is something on this topic from Ibn 'Abbās. And this *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ. وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

Some of the people of knowledge followed this, and they did not see any harm in cutting down the trees and destroying the fortresses.

Some of them disliked that. This is the view of Al-Awzā'ī. Al-Awzā'ī said: "Abū Bakr Aṣ-Ṣiddīq prohibited [Yazīd] from cutting fruit-bearing trees or destroying buildings, and the Muslims acted accordingly afterwards."

وقَدْ ذَهَبَ قَوْمٌ مِنْ أَهْلِ العِلْمِ إِلى هٰذَا، ولَمْ يَرَوْا بَأْسًا بِقَطْعِ الْأَشْجَارِ وتَخْرِيبِ الْحُصُونِ. وَكَرِهَ بَعْضُهُمْ ذٰلِكَ، وهُوَ قَوْلُ الْأَوْزَاعِيِّ. قَالَ الْأَوْزَاعِيُّ: ونَهَى أَبُو بَكْرٍ الصِّدِّيقُ [يَزِيدَ] أَنْ يَقْطَعَ شَجَرًا مُثْمِرًا أَوْ يُخَرِّبَ عَامِرًا وعَمِلَ بِذٰلِكَ الْمُسْلِمُونَ بَعْدَهُ.

Ash-Shāfi'ī said: "There is no harm in burning in the land of the enemy, nor cutting down the trees and fruit-bearing trees." Aḥmad said: "There may be places in which they have no choice about that. But as for haphazardly, then there should be no burning." Isḥāq said: "Burning is *Sunnah* when it will be more offensive to them."

وقَالَ الشَّافِعِيُّ: لَا بَأْسَ بِالتَّحْرِيقِ فِي أَرْضِ العَدُوِّ وقَطْعِ الْأَشْجَارِ والثِّمَارِ. وقَالَ أَحْمَدُ: وقَدْ تَكُونُ فِي مَوَاضِعَ لَا يَجِدُونَ مِنْهُ بُدًّا، فَأَمَّا بالْعَبَثِ فَلَا تُحَرَّقُ. وقَالَ إِسْحَاقُ: التَّحْرِيقُ سُنَّةٌ إِذا كانَ أَنْكَى فِيهِم.

تخريج: متفق عليه، وأخرجه البخاري، التفسير، باب قوله: ﴿ما قطعتم من لينة﴾،

[1] *Al-Ḥashr* 59:5.

ح: ٤٨٨٤ ومسلم، ح: ١٧٤٦ عن قتيبة به * وفي الباب عن ابن عباس [يأتي: ٣٣٠٣].

Comments:

All Four *A'immah* approve that in war, at the time of need, burning the trees and demolishing the forts of the enemy is legal. People of knowledge also approve of this point.

Chapter 5. What Has Been Related About the Spoils Of War

(المعجم ٥) - بَابُ مَا جَاءَ فِي الْغَنِيمَةِ

(التحفة ٥)

1553. Abū Umāmah narrated that the Prophet ﷺ said: "Verily, Allāh has honored me over the Prophets" – or, he said: "My nation over the nations, and He has made the spoils of war lawful for us." (***Hasan***)

There are narrations on this topic from 'Alī, Abū Dharr, 'Abdullāh bin 'Amr, Abū Mūsā, and Ibn 'Abbās.

[Abū 'Eīsā said:] The *Hadīth* of Abū Umāmah is a *Hasan Sahīh Hadīth*. They say that this Sayyār (a narrator) is Sayyār the freed slave of Banū Mu'āwiyah. Sulaimān At-Taimī, 'Abdullāh bin Bahīr and others reported from him.

(Another chain) from Abū Hurairah who narrated that the Prophet ﷺ said: "I have been honored over the Prophets with six (things): I have been given *Jawāmi' Al-Kalam*,[1] I have been aided by fright, the spoils of war have been made lawful for me, the earth has been made as a *Masjid* and purifier for me, and I have been sent to all creatures, and with me Prophethood is sealed." [2]

١٥٥٣ - حَدَّثَنَا مُحَمَّدُ بْنُ عُبَيْدٍ الْمُحَارِبِيُّ: حَدَّثَنَا أَسْبَاطُ بْنُ مُحَمَّدٍ عَنْ سُلَيْمَانَ التَّيْمِيِّ، عَنْ سَيَّارٍ، عَنْ أَبِي أُمَامَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ اللهَ فَضَّلَنِي عَلَى الْأَنْبِيَاءِ»، أَوْ قَالَ: «أُمَّتِي عَلَى الْأُمَمِ، وأَحَلَّ لَنا الغَنَائِمَ».

وفِي الْبَابِ عَنْ عَلِيٍّ، وأَبِي ذَرٍّ، وعَبْدِ اللهِ بْنِ عَمْرٍو، وأَبِي مُوسَى، وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي أُمَامَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وسَيَّارٌ هٰذَا يُقَالُ لَهُ: سَيَّارٌ مَوْلَى بَنِي مُعَاوِيَةَ، وَرَوَى عَنْهُ سُلَيْمَانُ التَّيْمِيُّ وعَبْدُ اللهِ بْنُ بَحِيرٍ وغَيْرُ واحِدٍ.

حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنِ العَلَاءِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «فُضِّلْتُ عَلَى الْأَنْبِيَاءِ بِسِتٍّ: أُعْطِيتُ جَوَامِعَ الكَلِمِ، ونُصِرْتُ بالرُّعْبِ، وأُحِلَّتْ لِيَ الغَنَائِمُ، وجُعِلَتْ لِيَ الْأَرْضُ مَسْجِدًا وطَهُورًا، وأُرْسِلْتُ إِلى الْخَلْقِ كافَّةً، وخُتِمَ بِيَ النَّبِيُّونَ».

[1] Speech that encompasses many meanings.

[2] *Muslim* 1167 also recorded this narration.

This *Hadīth* is *Hasan Sahīh*.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [حسن] وأخرجه أحمد: ٥/ ٢٤٨ من حديث سليمان التيمي به وللحديث شواهد * وفي الباب عن علي [البزار (كشف الأستار): ٣/ ١٤٧، ح: ٢٤٤٣] وأبي ذر [أبو داود، ح: ٤٨٩] وعبدالله بن عمرو [أحمد: ٢/ ٢٢٢] وأبي موسى [أحمد: ٤/ ٤١٦] وابن عباس [أحمد: ١/ ٢٥٠، ٣٠١].

Comments:

The Prophet ﷺ has superiority and many distinctions over previous Prophets. In the second narration, that of Abū Hurairah, which is recorded by *Muslim* and others, six distinctions have been mentioned.

Chapter 6. The Shares Given For The Horse

(المعجم ٦) - بَابٌ: فِي سَهْمِ الْخَيْلِ (التحفة ٦)

1554. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ divided the spoils as two shares for the horse and one share for the man." (*Sahīh*)

(Another chain) with similar meaning.

There are narrations on this topic from Mujammi' bin Jāriyah, Ibn 'Abbās, and Ibn Abī 'Amrah from his father. This *Hadīth* of Ibn 'Umar is a *Hasan Sahīh Hadīth*. This is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others.

This is the view of Sufyān Ath-Thawrī, Al-Awzā'ī, Mālik bin Anas, Ibn Al-Mubārak, Ash-Shāfi'ī, Ahmad, and Ishāq. They said that the horseman gets three shares, one share is for him and two shares for his horse. The foot soldiers get one share.

١٥٥٤ - حَدَّثَنَا أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ وحُمَيْدُ بْنُ مَسْعَدَةَ قَالَا: حَدَّثَنَا سُلَيْمُ بْنُ أَخْضَرَ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ قَسَمَ في النَّفَلِ للفَرَسِ بِسَهْمَيْنِ وللرَّجُلِ بِسَهْمٍ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ ابْنُ مَهْدِيٍّ عَنْ سُلَيْمِ بْنِ أَخْضَرَ نَحْوَهُ.

وفِي الْبَابِ عَنْ مُجَمِّعِ بْنِ جارِيَةَ، وابْنِ عَبَّاسٍ، وابْنِ أَبِي عَمْرَةَ عَنْ أَبِيهِ. وهٰذَا حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، والْأَوْزَاعِيِّ، ومالِكِ بْنِ أَنَسٍ، وابْنِ الْمُبَارَكِ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ قَالُوا: للفارِسِ ثَلَاثَةُ أَسْهُمٍ، سَهْمٌ لَهُ وسَهْمَانِ لفَرَسِهِ، وللرَّاجِلِ سَهْمٌ.

تخريج: وأخرجه مسلم، الجهاد، باب كيفية قسمة الغنيمة بين الحاضرين، ح: ١٧٦٢ من حديث سليم بن أخضر به * وفي الباب عن مجمع بن جارية [أبو داود، ح: ٢٧٣٦] وابن عباس [الدارقطني: ٤/ ١٠٣، ح: ٤١٢٨] وابن أبي عمرة عن أبيه [أبو داود، ح: ٢٧٣٤].

Comments:

In *Jihād*, the role of a horse is very important. Breeding, raising, and caring for horses is quite an expensive job, that is why the share of the horse has been prescribed in the spoils of war.

Chapter 7. What Has Been Related About The *Sarāyā* (Military Unit)

(المعجم ٧) - بَابُ مَا جَاءَ فِي السَّرَايَا

(التحفة ٧)

1555. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "The best companions are four, the best *Sarāyā* (military unit) is four hundred, the best army is four thousand, and twelve thousand will not be beaten due to being too few." (***Ḍa'īf***)

This *Hadīth* is *Hasan Gharīb*, it was not narrated with a chain by anyone important besides Jarīr bin Ḥāzim, and this *Hadīth* was only reported from Az-Zuhrī, from the Prophet ﷺ in *Mursal* form. Ḥibbān bin 'Alī Al-'Anazī reported it from 'Uqail, from Az-Zuhrī, from 'Ubaidullāh, from Ibn 'Abbās, from the Prophet ﷺ, and Al-Laith bin Sa'd reported it from Sa'd, from 'Uqail, from Az-Zuhrī, from the Prophet ﷺ in *Mursal* form.

١٥٥٥ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيى الأَزْدِيُّ البَصْرِيُّ وأَبُو عَمَّارٍ وغَيْرُ واحِدٍ قَالُوا: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ عَنْ أَبِيهِ، عَنْ يُونُسَ بْنِ يَزِيدَ، عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ ابْنِ عُتْبَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «خَيْرُ الصَّحَابَةِ أَرْبَعَةٌ، وَخَيْرُ السَّرَايا أَرْبَعُمائَةٍ، وخَيْرُ الْجُيُوشِ أَرْبَعَةُ آلافٍ، ولَا يُغْلَبُ اثْنَا عَشَرَ أَلْفًا مِنْ قِلَّةٍ».

هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا يُسْنِدُهُ كَبِيرُ أَحَدٍ غَيْرُ جَرِيرِ بْنِ حَازِمٍ، وإِنَّمَا رُوِيَ هٰذَا الحَدِيثُ عَنِ الزُّهْرِيِّ عَنِ النَّبِيِّ ﷺ مُرْسَلًا. وقَدْ رَوَاهُ حِبَّانُ بْنُ عَلِيٍّ الْعَنَزِيُّ عَنْ عُقَيْلٍ، عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ. ورَوَاهُ اللَّيْثُ بْنُ سَعْدٍ عَنْ عُقَيْلٍ، عَنِ الزُّهْرِيِّ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الجهاد، باب: في ما يستحب من الجيوش والرفقاء والسرايا، ح: ٢٦١١ من حديث وهب بن جرير به وصححه ابن خزيمة، ح: ٢٥٣٨ وابن حبان، ح: ٦٦٣ والحاكم: ١/ ٤٤٣، ٢/ ١٠١ على شرط الشيخين ووافقه الذهبي * الزهري مدلس وعنعن.

Comments:

There are needs and problems of long journeys, therefore, two or three persons feel it difficult to travel a long way on foot or on horseback. If many people are traveling together, it makes the journey easy. Similarly a small company of four hundred in a troop is just a precise and strong company. Any army of twelve thousand troops is a complete army.

Chapter 8. About Who Is Given Spoils Of War (*Al-Fay'*)[1]

(المعجم ٨) - بَابُ مَنْ يُعْطَى الْفَيْءَ

(التحفة ٨)

1556. Yazīd bin Hurmuz narrated that Najdah Al-Ḥarūrī wrote to Ibn 'Abbās asking if the Messenger of Allāh ﷺ would fight along with women, and if he would fix a share of the spoils of war for them. Ibn 'Abbās wrote to him: "You wrote to me asking me if the Messenger of Allāh ﷺ would fight along with women. He did fight along with them, as they would treat the wounded. They received something from the spoils of war, but as for their share, then he did not fix a share for them." (***Ṣaḥīḥ***)

There is something on this topic from Anas and Umm 'Aṭiyyah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to most of the people of knowledge. It is the view of Sufyān Ath-Thawrī and Ash-Shāfi'ī. Some of them said that a share is given to the woman and the boy, and this is the view of Al-Awzā'ī.

Al-Awzā'ī said: "The Prophet ﷺ gave a portion to the boys at Khaibar, and the *A'immah* of the Muslims gave a portion to every child born in the land of war." Al-Awzā'ī said: "The Prophet ﷺ gave a portion to the women at Khaibar, and that was followed by the Muslims after him." This was

١٥٥٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حاتِمُ بْنُ إِسْمَاعِيلَ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ، عَنْ يَزِيدَ بْنِ هُرْمُزَ: أَنَّ نَجْدَةَ الْحَرُورِيَّ كَتَبَ إِلى ابْنِ عَبَّاسٍ يَسْأَلُهُ هَلْ كانَ رَسُولُ اللهِ ﷺ يَغْزُو بالنِّسَاءِ؟ وهَلْ كانَ يَضْرِبُ لَهُنَّ بِسَهْمٍ؟ فَكَتَبَ إِلَيْهِ ابْنُ عَبَّاسٍ: كَتَبْتَ إِلَيَّ تَسْأَلُنِي هَلْ كانَ رَسُولُ اللهِ ﷺ يَغْزُو بالنِّسَاءِ، وكانَ يَغْزُو بِهِنَّ فَيُدَاوِينَ المَرْضَى ويُحْذَيْنَ مِنَ الغَنِيمَةِ، وأَمَّا يُسْهِمُ: فَلَمْ يَضْرِبْ لَهُنَّ بِسَهْمٍ.

وفِي الْبَابِ عَنْ أَنَسٍ، وأُمِّ عَطِيَّةَ.

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، والشَّافِعِيِّ. وقَالَ بَعْضُهُمْ: يُسْهَمُ للمَرْأَةِ والصَّبِيِّ وهُوَ قَوْلُ الْأَوْزَاعِيِّ.

قَالَ الْأَوْزَاعِيُّ: وأَسْهَمَ النَّبِيُّ ﷺ للصِّبْيَانِ بِخَيْبَرَ وأَسْهَمَتْ أَئِمَّةُ الْمُسْلِمِينَ لِكُلِّ مَوْلُودٍ وُلِدَ فِي أَرْضِ الْحَرْبِ قَالَ الْأَوْزَاعِيُّ: وأَسْهَمَ النَّبِيُّ ﷺ للنِّسَاءِ بِخَيْبَرَ، وأَخَذَ بِذٰلِكَ الْمُسْلِمُونَ بَعْدَهُ، حَدَّثَنَا بِذٰلِكَ عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنِ الْأَوْزَاعِيِّ بِهٰذَا.

ومَعْنَى قَوْلِهِ: ويُحْذَيْنَ مِنَ الْغَنِيمَةِ:

[1] Usually, *Al-Fay'* refers to goods captured without any fight, while *Ghanīmah* refers to the spoils of war in general. Here, it is apparent that the author is using *Al-Fay'* to rerer to *Ghanīmah* as well.

narrated to us by 'Alī bin Khashram (who said): "'Eīsā bin Yūnus narrated this to us from Al-Awzā'ī."

The meaning of his saying: "They received something from the spoils of war" it is said that he conferred something on them (the women) from the spoils of war.

يَقُولُ: يُرْضَخُ لَهُنَّ بِشَيْءٍ مِنَ الغَنِيمَةِ: يُعْطَيْنَ شَيْئًا.

تخريج: وأخرجه مسلم، الجهاد، باب النساء الغازيات يرضخ لهن ولا يسهم ... إلخ، ح:١٨١٢/١٣٨ من حديث حاتم بن إسماعيل به ✻ وفي الباب عن أنس [لم أجده] وأم عطية [لعله يشير إلى حديث مسلم، ح:١٨١٢/١٤٢].

Comments:

According to most of the people of knowledge, the women are not supposed to take part in war, and fighting with the enemy is not their duty, so their share has not been described in the spoils of war, but the army chief can give them a small share.

Chapter 9. Does The Slave Receive A Share?

(المعجم ٩) - بَابٌ: هَلْ يُسْهَمُ لِلْعَبْدِ (التحفة ٩)

1557. 'Umair, the freed slave of Ābīl-Laḥm said: "I participated at Khaibar with my masters. They spoke about me to the Messenger of Allāh ﷺ and told him that I was a slave." He said: "So he ordered me to take up the sword, and I found myself dragging it, so he ordered that I be given something from the goods. I presented a *Ruqyah* that I used to treat the possessed with, so he ordered me leave some of it and keep some of it."[1] **(*Ṣaḥīḥ*)**

There is something on this topic from Ibn 'Abbās.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of

١٥٥٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا بِشْرُ بْنُ الْمُفَضَّلِ عَنْ مُحَمَّدِ بْنِ زَيْدٍ، عَنْ عُمَيْرٍ مَوْلَى آبِي اللَّحْمِ، قَالَ: شَهِدْتُ خَيْبَرَ مَعَ سَادَتِي فَكَلَّمُوا فِيَّ رَسُولَ اللهِ ﷺ وكَلَّمُوهُ أَنِّي مَمْلُوكٌ. قَالَ: فَأَمَرَنِي فَقُلِّدْتُ السَّيْفَ فَإِذا أَنَا أَجُرُّهُ فَأَمَرَ لِي بِشَيْءٍ مِنْ خُرْثِيِّ الْمَتَاعِ، وعَرَضْتُ عَلَيْهِ رُقْيَةً كُنْتُ أَرْقِي بِهَا الْمَجَانِينَ، فَأَمَرَنِي بِطَرْحِ بَعْضِهَا وحَبْسِ بَعْضِهَا.

وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ.

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ أَنْ لَا يُسْهَمَ لِلْمَمْلُوكِ، ولَكِنْ يُرْضَخُ لَهُ بِشَيْءٍ، وهُوَ قَوْلُ

[1] That is: To discard some of it's words that oppose the Qur'ān and Sunnah. See *Tuḥfat Al-Aḥwadhī*.

the people of knowledge. A (complete) portion is not given to the slave, but something is conferred upon him. This is the view of Ath-Thawrī, Aḥ-Shāfi'ī, Aḥmad, and Isḥāq.

الثَّوْرِيِّ، والشَّافِعِيِّ، وأَحْمَدَ، وإِسْحَاقَ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الجهاد، باب: في المرأة والعبد يحذيان من الغنيمة، ح:٢٧٣٠ من حديث بشر بن المفضل به وصححه ابن حبان، ح:١٦٦٩ والحاكم:٢/ ١٣١ والذهبي * وفي الباب عن ابن عباس [تقدم:١٥٥٦].

Comments:

Regarding the share of a slave in the spoils of war, the view of most of the people of knowledge is the same as has been explained in the preceding narration about women. This narration also proves that treatment of a patient with *Ruqya* which is not against the Holy Qur'ān and *Sunnah* of the Prophet ﷺ is lawful.

Chapter 10. What Has Been Related About *Ahl Adh-Dhimmah* Fighting With The Muslims, Are They To Receive A Share Of The Spoils Of War?

(المعجم ١٠) - بَابٌ: مَا جَاءَ فِي أَهْلِ الذِّمَّةِ يَغْزُونَ مَعَ الْمُسْلِمِينَ هَلْ يُسْهَمُ لَهُمْ (التحفة ١٠)

1558. 'Āishah narrated that the Messenger of Allāh ﷺ advanced towards Badr till he reached Ḥarrah Al-Wabr[1] where he was met by a man from the idolaters, about whom it was said he was brave and courageous. The Prophet ﷺ said to him: "Do you believe in Allāh and his Messenger?" He said: "No." He said: "Then return, because we do not seek aid from an idolater." (*Ṣaḥīḥ*)

The *Ḥadīth* has more dialogue than this. And this is a *Ḥasan Gharīb Ḥadīth*. This is acted upon according to some of the people of knowledge. They say that the people of *Adh-Dhimmah* do not

١٥٥٨ - حَدَّثَنَا الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مالِكُ بْنُ أَنَسٍ عَنِ الفُضَيْلِ بْنِ أَبِي عَبْدِ اللهِ، عَنْ عَبْدِ اللهِ بْنِ نِيَارٍ الأَسْلَمِيِّ، عَنْ عُرْوَةَ، عَنْ عائِشَةَ: أَنَّ رَسُولَ اللهِ ﷺ خَرَجَ إِلى بَدْرٍ حَتَّى إِذا كانَ بِحَرَّةِ الوَبرِ لَحِقَهُ رَجُلٌ مِنَ الْمُشْرِكِينَ يُذْكَرُ مِنْهُ جُرْأَةٌ ونَجْدَةٌ، فَقَالَ لَهُ النَّبِيُّ ﷺ: «تُؤْمِنُ بِاللهِ وَرَسُولِهِ؟» قَالَ: لَا، قَالَ: «ارْجِعْ فَلَنْ أَسْتَعِينَ بِمُشْرِكٍ».

وفِي الْحَدِيثِ كَلَامٌ أَكْثَرُ مِنْ هٰذَا.

هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ، قَالُوا: لَا يُسْهَمُ لأَهْلِ الذِّمَّةِ وإِنْ قَاتَلُوا مَعَ الْمُسْلِمِينَ الْعَدُوَّ.

[1] A location about four miles from Al-Madīnah.

receive a share, even if they were to fight along with the Muslims against the enemy.

Some of the people of knowledge said that they are given a share when they attend the battle with the Muslims. It has been related by Az-Zuhrī, that the Prophet ﷺ gave a portion to some people among the Jews who fought along with him. This was narrated to us by Qutaibah (who said): "Abdul-Wārith bin Sa'eed narrated to us from 'Urwah bin Thābit, from Az-Zuhrī." [This *Ḥadīth* is *Ḥasan Gharīb*].

وَرَأَى بَعْضُ أَهْلِ الْعِلْمِ أَنْ يُسْهَمَ لَهُمْ إِذَا شَهِدُوا الْقِتَالَ مَعَ الْمُسْلِمِينَ. وَيُرْوَى عَنِ الزُّهْرِيِّ أَنَّ النَّبِيَّ ﷺ أَسْهَمَ لِقَوْمٍ مِنَ الْيَهُودِ قَاتَلُوا مَعَهُ، حَدَّثَنَا بِذَلِكَ قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا عَبْدُ الْوَارِثِ بْنُ سَعِيدٍ عَنْ عَزْرَةَ بْنِ ثَابِتٍ، عَنِ الزُّهْرِيِّ. [هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ].

تخريج: وأخرجه مسلم، الإمارة، باب كراهة الاستعانة في الغزو بكافر إلا لحاجة ... إلخ، ح:١٨١٧ من حديث مالك به * حديث: "أسهم لقوم من اليهود"، سنده ضعيف لإرساله.

Comments:

If any disbeliever takes part in the war on his own, he will be given something from the spoils. Imām Aḥmad, Al-Awzā'ī, Az-Zuhrī, and Isḥāq support this view. According to Imām Mālik, Abū Ḥanīfah and Ash-Shāfi'ī, a disbeliever will get no share from the spoils of war. (*Tuḥfat Al-Aḥwadhī* v. 2. p.381. and *Al-Mughnī* v. 13 p.97-98.)

1559. Abū Mūsā narrated: "I arrived upon the Messenger of Allāh ﷺ at Khaibar along with a group of the Ash'arī tribe. He gave us shares along with those that conquered it." (***Ṣaḥīḥ***)

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*. This is acted upon according to some of the people of knowledge. Al-Awzā'ī said: "Whoever meets up with the Muslims before the horses', share is distributed, then he is given a share." [And Buraid's (a narrator) *Kunyah* is Abū Buraidah and he is trustworthy. Sufyān Ath-Thawrī, Ibn 'Uyainah and others report from him].

١٥٥٩ - حَدَّثَنَا أَبُو سَعِيدٍ الْأَشَجُّ: حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ: حَدَّثَنَا بُرَيْدُ بْنُ عَبْدِ اللهِ بْنِ أَبِي بُرْدَةَ عَنْ جَدِّهِ أَبِي بُرْدَةَ، عَنْ أَبِي مُوسَى: قَالَ: قَدِمْتُ عَلَى رَسُولِ اللهِ ﷺ فِي نَفَرٍ مِنَ الْأَشْعَرِيِّينَ خَيْبَرَ فَأَسْهَمَ لَنَا مَعَ الَّذِينَ افْتَتَحُوهَا.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ. وَالْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ. قَالَ الْأَوْزَاعِيُّ: مَنْ لَحِقَ بِالْمُسْلِمِينَ قَبْلَ أَنْ يُسْهَمَ لِلْخَيْلِ أُسْهِمَ لَهُ [وَبُرَيْدٌ يُكْنَى أَبَا بُرَيْدَةَ وَهُوَ ثِقَةٌ، وَرَوَى عَنْهُ سُفْيَانُ الثَّوْرِيُّ وَابْنُ عُيَيْنَةَ وَغَيْرُهُمَا].

تخريج: وأخرجه البخاري، المغازي، باب غزوة خيبر، ح:٤٢٣٣ من حديث بريد به.

Comments:

A share from the spoils of war is the right of those who have participated in the battle, if some people arrive late when the battle is over, and the spoils have not yet distributed, keeping in view the circumstances and needs of the latecomers just to comfort them, a small share can be given to them after consultation, and with the consent of the other warriors. (*Tuḥfat Al-Aḥwadhī* v.2. p.381 and *Al-Mughnī*.)

Chapter 11. What Has Been Related About Using The Containers Of The Idolaters

(المعجم ١١) - بَابُ مَا جَاءَ فِي الانْتِفَاعِ بِآنِيَةِ الْمُشْرِكِينَ (التحفة ١١)

1560. Abū Tha'labah Al-Khushanī narrated: "The Messenger of Allāh ﷺ was asked about the pots of the Zorastrians. He said: 'Clean them by washing them, and then cook in them.' And he prohibited every predator [and] possessor of canines." (*Ṣaḥīḥ*)

This *Hadīth* has been reported through routes other than this from Abū Tha'labah. Abū Idrīs Al-Khawlānī reported it from Abū Tha'labah. Abū Qilābah did not hear from Abū Tha'labah, he only reported it from Abū Asmā', from Abū Tha'labah.

(Another chain) from Abū Idrīs Al-Khawlānī 'Āi'dhullāh bin 'Ubaidullāh who said: "I heard Abū Tha'labah Al-Khushanī saying: 'I went to the Messenger of Allāh ﷺ and said: "O Messenger of Allāh! We live in a land of the People of the Book and we eat from their containers." He said: "If you find other containers than do not eat from them. If you do not find them, then wash them and eat from them."

١٥٦٠ - حَدَّثَنَا زَيْدُ بْنُ أَخْزَمَ الطَّائِيُّ: حَدَّثَنَا أَبُو قُتَيْبَةَ سَلْمُ بْنُ قُتَيْبَةَ: حَدَّثَنَا شُعْبَةُ عَنْ أَيُّوبَ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ عَنْ قُدُورِ الْمَجُوسِ. فَقَالَ: «أَنْقُوهَا غَسْلًا واطْبُخُوا فِيهَا»، ونَهَىٰ عَنْ كُلِّ سَبُعٍ [و]ذِي نَابٍ.

وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ هٰذَا الْوَجْهِ عَنْ أَبِي ثَعْلَبَةَ، [و]رَوَاهُ أَبُو إِدْرِيسَ الْخَوْلَانِيُّ عَنْ أَبِي ثَعْلَبَةَ، وَأَبُو قِلَابَةَ لَمْ يَسْمَعْ مِنْ أَبِي ثَعْلَبَةَ، إِنَّمَا رَوَاهُ عَنْ أَبِي أَسْمَاءَ، عَنْ أَبِي ثَعْلَبَةَ.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنْ حَيْوَةَ ابْنِ شُرَيْحٍ. قَالَ: سَمِعْتُ رَبِيعَةَ بْنَ يَزِيدَ الدِّمَشْقِيَّ يَقُولُ: أَخْبَرَنِي أَبُو إِدْرِيسَ الْخَوْلَانِيُّ عائِذُ اللهِ بْنُ عُبَيْدِ اللهِ. قَالَ: سَمِعْتُ أَبَا ثَعْلَبَةَ الْخُشَنِيَّ يَقُولُ: أَتَيْتُ رَسُولَ اللهِ ﷺ فَقُلْتُ: يَا رَسُولَ اللهِ إِنَّا بِأَرْضِ قَوْمٍ أَهْلِ كِتَابٍ نَأْكُلُ فِي آنِيَتِهِمْ. قَالَ: «إِنْ وَجَدْتُمْ غَيْرَ آنِيَتِهِمْ فَلَا تَأْكُلُوا فِيهَا، فَإِنْ لَمْ

تَجِدُوا فاغْسِلُوهَا وكُلُوا فِيهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: [صحيح] وأخرجه أحمد: ٤/ ١٩٣ من حديث شعبة به ورواه البخاري، ح: ٥٤٧٨ (ومسلم، ح: ١٩٣٠ عن هناد) من حديث حيوة بن شريح به.

Comments:

Use of the utensils of non-Muslims should be avoided. In dire need it is allowed to use them after careful and thorough washing. (*Tuḥfat Al-Aḥwadhī* v.2. p. 382 and *Subul As-Salām* v. 1 p.43-44.)

Chapter 12. Regarding The *Nafl*[1]

(المعجم ١٢) - بَابٌ: فِي النَّفْلِ (التحفة ١٢)

١٥٦١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ الحارِثِ، عَنْ سُلَيْمَانَ بْنِ مُوسَى، عَنْ مَكْحُولٍ، عَنْ أَبِي سَلَّامٍ، عَنْ أَبِي أُمَامَةَ، عَنْ عُبَادَةَ بْنِ الصَّامِتِ: أَنَّ النَّبِيَّ ﷺ كَانَ يُنَفِّلُ فِي البَدْأَةِ الرُّبُعَ، وفِي القُفُولِ الثُّلُثَ.

1561. 'Ubādah bin Aṣ-Ṣāmiṭ narrated: "The Prophet ﷺ used to confer a fourth of the spoils of war in the early part of the expedition, and a third during the return." (*Ṣaḥīḥ*)

وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ، وحَبِيبِ بْنِ مَسْلَمَةَ، ومَعْنِ بْنِ يَزِيدَ، وابْنِ عُمَرَ وسَلَمَةَ ابْنِ الْأَكْوَعِ. وحَدِيثُ عُبَادَةَ حَدِيثٌ حَسَنٌ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنْ أَبِي سَلَّامٍ؛ عَنْ رَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ.

There are narrations on this topic from Ibn 'Abbās, Ḥabīb bin Maslamah, Ma'n bin Yazīd, Ibn 'Umar, and Salamah bin Al-Akwa'. The *Ḥadīth* of 'Ubādah is a *Ḥasan Ḥadīth*. This *Ḥadīth* has also been reported from Abū Salām from a man among the Companions of the Prophet ﷺ.

حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا ابْنُ أَبِي الزِّنَادِ عَنْ أَبِيهِ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ عُتْبَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ تَنَفَّلَ سَيْفَهُ ذَا الفَقَارِ يَوْمَ بَدْرٍ وَهُوَ الَّذي رَأَى فِيهِ الرُّؤْيَا يَوْمَ أُحُدٍ.

(Another chain) from Ibn 'Abbās that the Prophet ﷺ took his sword Dhul-Fiqār on the Day of Badr, and it is the one that he saw in the dream on the Day of *Uḥud*.

This *Ḥadīth* is *Ḥasan Gharīb*. We only know of it from this route through the report of Ibn Abī Az-Zinād.

The people of knowledge differ

[1] An additional gift from the spoils of war that is given to particular fighters.

هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. إِنَّمَا نَعْرِفُهُ مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ ابْنِ أَبِي الزِّنَادِ. وقَدِ اخْتَلَفَ أَهْلُ الْعِلْمِ فِي النَّفَلِ مِنَ الْخُمُسِ، فَقَالَ مالِكُ بْنُ أَنَسٍ: لَمْ يَبْلُغني أَنَّ رَسُولَ اللهِ ﷺ نَفَّلَ في مَغَازِيهِ كُلِّهَا، وقَدْ بَلَغَنِي أَنَّهُ نَفَّلَ في بَعْضِهَا وإِنَّمَا ذٰلِكَ عَلَى وَجْهِ الاجْتِهَادِ مِنَ الْإِمَامِ في أَوَّلِ المَغْنَمِ وآخِرِهِ.

قَالَ ابْنُ مَنْصُورٍ: قُلْتُ لأَحْمَدَ: إِنَّ النَّبِيَّ ﷺ نَفَّلَ إذا فَصَلَ بالرُّبُعِ بَعْدَ الْخُمُسِ، وإِذا قَفَلَ بالثُّلُثِ بَعْدَ الخُمُسِ، فَقَالَ: يُخْرِجُ الْخُمُسَ ثُمَّ يُنَفِّلُ مِمَّا بَقِيَ ولَا يُجَاوِزُ هٰذَا.

[قَالَ أَبُو عِيسَى:] وهٰذَا الْحَدِيثُ عَلَى مَا قَالَ ابْنُ المُسَيَّبِ: النَّفْلُ مِنَ الْخُمُسِ. قَالَ إِسْحَاقُ: كَمَا قَالَ.

over giving the *Nafl* from the *Khumus*. Mālik bin Anas said: "It has not reached me that the Messenger of Allāh ﷺ gave the *Nafl* during every expedition, but it has been conveyed to me that he gave the *Nafl* in some of them. That is only done according to the discretion of the *Imām* during the beginning of the division of the spoils or the end of it."

Ibn Manṣūr said: "I said to Aḥmad: 'The Prophet ﷺ gave the *Nafl* when he divided the fourth, after the *Khumus*, and when he was returning (he gave) the third from the *Khumus*.' So he said: 'The *Khumus* is taken, and then the *Nafl* is given from what remains, nothing beyond this.'"

[Abū 'Eīsā said:] This *Ḥadīth* is (understood) as Ibn Musayyab said: "The *Nafl* is from the *Khumus*." Isḥāq said as he said.

تخريج: [صحيح] وأخرجه ابن ماجه، الجهاد، باب النفل، ح:٢٨٥٢ من حديث سفيان الثوري به وللحديث شاهد حسن عند أبي داود، ح:٢٧٥٠ وغيره * وفي الباب عن ابن عباس [يأتي بعده: ١٥٦١ب] وحبيب بن مسلمة [أبو داود، ح:٢٧٤٩، ٢٧٥٠] ومعن بن يزيد [أبو داود، ح:٢٧٥٣، ٢٧٥٤] وابن عمر [البخاري، ح:٣١٣٤، ٣١٣٥ ومسلم، ح:١٧٤٩، ١٧٥٠] وسلمة بن الأكوع [البخاري، ح:٣٠٥١ ومسلم، ح:١٧٥٤، ١٧٥٥] * حديث ابن عباس: رواه ابن ماجه، ح:٢٨٠٨ من حديث عبدالرحمن بن أبي الزناد به.

Comments:

In the start when the army advances for the conflict, troops are fresh and on the way to battlefield. If a company of the Muslim army engages with some enemy regiment, and after defeating them, they acquire some spoils, one fourth share of this will be given to the company in action, and this will be equally distributed among the company members. Similarly on return, when the army is tired after the conflict, a company performing heroic deed on its way back gets a one third share of the spoils.

Chapter 13. What Has Been Related About: Whoever Kills Someone In Battle, Then His Goods Are His

(المعجم ١٣) - بَابُ مَا جَاءَ فِيمَنْ قَتَلَ قَتِيلًا فَلَهُ سَلَبُهُ (التحفة ١٣)

1562. Abū Qatādah narrated that the Messenger of Allāh ﷺ said: "Whoever kills someone in battle, having a proof for that, then his goods are his." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There is a story with this *Ḥadīth*.

(Another chain) with similar meaning.

There are narrations on this topic from 'Awf bin Mālik, Khālid bin Al-Wālīd, Anas, and Samurah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Abū Muḥammad is Nāfi' the freed slave of Abū Qatādah.

This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. It is the view of Al-Awzā'ī, Ash-Shāfi'ī and Aḥmad.

Some of the people of knowledge said that the *Imām* takes *Khumus* from those goods. Ath-Thawrī said: "The *Nafl* is when the *Imām* says: 'Whoever got something, then it is his. And whoever killed a fighter, then his goods are his.' So it is allowed, and there is no *Khumus* taken from it." Isḥāq said: "The goods are for the one who did the killing, unless it is something that is a large amount." So he saw that the *Imām* could take the *Khumus* from that, just as 'Umar bin Al-Khaṭṭāb did.

١٥٦٢ - حَدَّثَنَا الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مالِكُ بْنُ أَنَسٍ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ عُمَرَ بْنِ كَثِيرِ بْنِ أَفْلَحَ، عَنْ أَبِي مُحَمَّدٍ مَوْلَى أَبِي قَتَادَةَ، عَنْ أَبِي قَتَادَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ قَتَلَ قَتِيلًا لَهُ عَلَيْهِ بَيِّنَةٌ فَلَهُ سَلَبُهُ».

[قَالَ أَبُو عِيسَى:] وفِي الْحَدِيثِ قِصَّةٌ.

حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ عَنْ يَحْيَى بْنِ سَعِيدٍ بِهٰذَا الْإِسْنَادِ نَحْوَهُ.

وفِي الْبَابِ عَنْ عَوْفِ بْنِ مالِكٍ، وخَالِدِ ابْنِ الْوَلِيدِ، وأَنَسٍ، وَسَمُرَةَ.

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو مُحَمَّدٍ هُوَ نافِعٌ مَوْلَى أَبِي قَتَادَةَ، والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ، وهُوَ قَوْلُ الْأَوْزَاعِيِّ، والشَّافِعِيِّ، وأَحْمَدَ. وَقَالَ بَعْضُ أَهْلِ الْعِلْمِ: لِلْإِمَامِ أَنْ يُخْرِجَ مِنَ السَّلَبِ الْخُمُسَ. وقَالَ الثَّوْرِيُّ: النَّفْلُ: أَنْ يَقُولَ الْإِمَامُ: مَنْ أَصَابَ شَيْئًا فَهُوَ لَهُ، ومَنْ قَتَلَ قَتِيلًا فَلَهُ سَلَبُهُ، فَهُوَ جَائِزٌ وَلَيْسَ فِيهِ الْخُمُسُ وقَالَ إِسْحَاقُ: السَّلَبُ لِلْقَاتِلِ إِلَّا أَنْ يَكُونَ شَيْئًا كَثِيرًا، فَرَأَى الْإِمَامُ أَنْ يُخْرِجَ مِنْهُ الْخُمُسَ كَمَا فَعَلَ عُمَرُ بْنُ الْخَطَّابِ.

تخريج: متفق عليه، وأخرجه البخاري، فرض الخمس، باب من لم يخمس الأسلاب، ح:٣١٤٢ ومسلم، ح:١٧٥١ من حديث مالك به وهو في الموطأ: ٢/ ٤٥٤ بطوله * وفي الباب عن عوف بن مالك [مسلم، ح:١٧٥٣] وخالد بن الوليد [أبو داود، ح:٢٧٢١] وأنس [أحمد:٣/ ١١٤ وأصله عند مسلم، ح:١٨٠٩] وسمرة [ابن ماجه، ح:٢٨٣٨].

Comments:

In battle, the personal belongings of a fallen enemy like his sword, clothes etc., when the fighter has a witness or some proof he keeps such goods. Imām Al-Awzā‘ī, Al-Laith, Ash-Shafi‘ī, Aḥmad, Isḥāq, and others support this point of view and this is correct. If the personal belongings of the killed are precious or considerable in quantity, then the chief of the army is allowed to take one fifth of it for the state.

Chapter 14. About It Being Disliked To Sell The Spoils Of War Until It Has Been Distributed

(المعجم ١٤) - بَابٌ: فِي كَرَاهِيَةِ بَيْعِ الْمَغَانِمِ حَتَّى تُقْسَمَ (التحفة ١٤)

1563. Abū Sa‘eed Al-Khudrī narrated: "The Messenger of Allāh ﷺ prohibited selling the spoils of war until it has been distributed." (*Ḥasan*)

There is something on this topic from Abū Hurairah.

[Abū ‘Eīsā said:] This *Ḥadīth* is *Gharīb*.

١٥٦٣ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا حَاتِمُ بْنُ إِسْمَاعِيلَ عَنْ جَهْضَمِ بْنِ عَبْدِ اللهِ، عَنْ مُحَمَّدِ ابْنِ إِبْرَاهِيمَ، عَنْ مُحَمَّدِ بْنِ زَيْدٍ، عَنْ شَهْرِ بْنِ حَوْشَبٍ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ شِرَاءِ الْمَغَانِمِ حَتَّى تُقْسَمَ.

وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ غَرِيبٌ.

تخريج: [حسن] وأخرجه ابن ماجه، التجارات، باب النهي عن شراء ما في بطون الأنعام ... إلخ، ح:٢١٩٦ من حديث حاتم به وسنده ضعيف وللحديث شواهد كثيرة عند ابن أبي شيبة: ١٢/ ٤٣٥-٤٣٧ وغيره * وفي الباب عن أبي هريرة [أحمد: ٢/ ٤٧٢].

Comments:

Before distribution, the spoils are the property of the state, and the share of an individual is unknown prior to its division, therefore, its sale and purchase in this condition is unlawful.

Chapter 15. What Has Been Related About It Being Disliked To Have Intercourse With Pregnant Female Prisoners

(المعجم ١٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ وَطْءِ الْحُبَالَى مِنَ السَّبَايَا (التحفة ١٥)

1564. Umm Ḥabībah bint ‘Irbāḍ bin Sāriyah narrated from her father who told her that the

١٥٦٤ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيى النَّيْسَابُورِيُّ: حَدَّثَنَا أَبُو عَاصِمٍ النَّبِيلُ عَنْ

وَهْبٍ أَبِي خَالِدٍ قَالَ: حَدَّثَتْنِي أُمُّ حَبِيبَةَ بِنْتِ عِرْبَاضِ بْنِ سَارِيَةَ أَنَّ أَبَاهَا أَخْبَرَهَا: أَنَّ رَسُولَ اللهِ ﷺ نَهَى أَنْ تُوطَأَ السَّبَايَا حَتَّى يَضَعْنَ مَا فِي بُطُونِهِنَّ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ رُوَيْفِعِ ابْنِ ثابِتٍ. وحَدِيثُ عِرْبَاضٍ حَدِيثٌ غَرِيبٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ.

وقَالَ الْأَوْزَاعِيُّ: إِذا اشْتَرَى الرَّجُلُ الجَارِيَةَ مِنَ السَّبْيِ وهِيَ حَامِلٌ، فَقَدْ رُوِيَ عَنْ عُمَرَ بْنِ الْخَطَّابِ أَنَّهُ قَالَ: لَا تُوْطَأُ حَامِلٌ حَتَّى تَضَعَ. قَالَ الْأَوْزَاعِيُّ: وأَمَّا الحَرَائِرُ فَقَدْ مَضَتِ السُّنَّةُ فِيهِنَّ بِأَنْ أُمِرْنَ بالعِدَّةِ. كُلُّ هٰذَا حَدَّثَنِي عَلِيُّ بْنُ خَشْرَمٍ قَالَ: حَدَّثَنَا عِيسَى بْنُ يُونسَ عَنِ الْأَوْزَاعِيِّ.

Messenger of Allāh ﷺ prohibited intercourse with female prisoners, until they deliver what is in their wombs." (***Hasan***)

[Abū 'Eīsā said:] There is something on this topic from Ruwaifi' bin Thābit, and the *Hadīth* of 'Irbāḍ is a *Gharīb Hadīth*. This is acted upon according to the people of knowledge.

Al-Awzā'ī said: "When a man purchases a slave girl from the captives and she is pregnant, then it has been related from 'Umar bin Al-Khaṭṭāb that he said: 'Do not have intercourse with the pregnant woman until she gives birth.'" Al-Awzā'ī said: "As for the free women, then the *Sunnah* about them has passed, in that the *'Iddah* be observed." All of this was narrated to me by 'Alī bin Khushram who said: " 'Eīsā bin Yūnus narrated to us from Al-Awzā'ī."

تخريج: **[حسن]** وأخرجه أحمد: ٤/ ١٢٧ عن أبي عاصم به وتقدم مطولاً: ١٤٧٤ وله شاهد تقدم: ١١٣١ * وفي الباب عن رويفع بن ثابت [أحمد: ٤/ ١٠٨، ١٠٩ وأصله عند أبي داود، ح: ٣٦ وتقدم طرفه: ١١٣١].

Comments:

Having sexual intercourse with a pregnant slave woman who is given to a warrior as his share of the spoils is not allowed. Since the pregnancy is from someone else, the owner of the pregnant slave woman is not allowed to have sexual relations with her until she gives birth to the child.

Chapter 16. What Has Been Related About The Food Of The Idolaters

(المعجم ١٦) - بَابُ مَا جَاءَ فِي طَعَامِ الْمُشْرِكِينَ (التحفة ١٦)

١٥٦٥ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلانَ: حَدَّثَنَا أَبُو دَاوُدَ الطَّيَالِسِيُّ عَنْ شُعْبَةَ: أَخْبَرَنِي سِمَاكُ ابْنُ حَرْبٍ قَالَ: سَمِعْتُ قَبِيصَةَ بْنَ هُلْبٍ

1565. Qabīṣah bin Hulb narrated from his father, who said: "I asked the Prophet ﷺ about the food of the Christians. He ﷺ said: 'Do not

يُحَدِّثُ عَنْ أَبِيهِ قَالَ: سَأَلْتُ النَّبِيَّ ﷺ عَنْ طَعَامِ النَّصَارَى، فَقَالَ: «لَا يَتَخَلَّجَنَّ فِي صَدْرِكَ طَعَامٌ ضَارَعْتَ فِيهِ النَّصْرَانِيَّةَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ. قَالَ مَحْمُودٌ: وقَالَ عُبَيْدُ اللهِ بْنُ مُوسَى عَنْ إِسْرَائِيلَ، عَنْ سِمَاكٍ، عَنْ قَبِيصَةَ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ مِثْلَهُ. قَالَ مَحْمُودٌ: وقَالَ وَهْبُ بْنُ جَرِيرٍ عَنْ شُعْبَةَ، عَنْ سِمَاكٍ، عَنْ مُرَيِّ بْنِ قَطَرِيٍّ، عَنْ عَدِيِّ بْنِ حَاتِمٍ عَنِ النَّبِيِّ ﷺ مِثْلَهُ.

والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ مِنَ الرُّخْصَةِ فِي طَعَامِ أَهْلِ الكِتَابِ.

allow food to put uneasiness in your chest similar to the doubts of Christianity about it." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

(Another chain) with similar narration.

(Another chain) with similar narration.

This is acted upon according to the people of knowledge regarding the permission for the food of the People of the Book.

تخريج: [إسناده حسن] وأخرجه أبو داود، الأطعمة، باب كراهية التقذر للطعام، ح: ٣٧٨٤ وابن ماجه، ح: ٢٨٣٠ من حديث سماك به * حديث عدي بن حاتم: سنده حسن، مري بن قطري تعديله راجح كما في نيل المقصود، ح: ٢٨٢٤.

Comments:

Christians, without any legal reason and genuine cause, used to avoid some lawful foods and make them unlawful for themselves. In this narration Muslims are advised not to follow the Christians regarding foods. They should eat what is lawful for them and should not have any hesitation in eating legal foods.

(المعجم ١٧) - بَابٌ: فِي كَرَاهِيَةِ التَّفْرِيقِ بَيْنَ السَّبْيِ (التحفة ١٧)

Chapter 17. About It Being Disliked To Separate (Related) Captives

١٥٦٦ - حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ [بْنِ عُمَرَ] الشَّيْبَانِيُّ: حَدَّثَنَا عَبْدُ اللهِ بْنُ وَهْبٍ: أَخْبَرَنِي حُيَيٌّ عَنْ أَبِي عَبْدِ الرَّحْمٰنِ الْحُبُلِيِّ، عَنْ أَبِي أَيُّوبَ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ فَرَّقَ بَيْنَ وَالِدَةٍ وَوَلَدِها فَرَّقَ اللهُ بَيْنَهُ وبَيْنَ أَحِبَّتِهِ يَوْمَ الْقِيَامَةِ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عَلِيٍّ. وهٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. والْعَمَلُ عَلَى هٰذَا

1566. Abū Ayyūb narrated that he heard the Messenger of Allāh ﷺ say: "Whoever separates between a mother and her child, then Allāh will separate between him and his beloved on the Day of Judgement." (*Ḥasan*)

[Abū 'Eīsā said:] There is something on this topic from 'Alī. This *Ḥadīth* is *Ḥasan Gharīb*.

This is acted upon according to the people of knowledge among

the Companions of the Prophet ﷺ and others. They dislike separating the captives; the mother and her child, the son and the father, and brothers.

عِنْدَ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ كَرِهُوا التَّفْرِيقَ بَيْنَ السَّبْيِ: بَيْنَ الْوَالِدَةِ وَوَلَدِها، وبَيْنَ الْوَلَدِ والْوَالِدِ، وبَيْنَ الإِخْوَةِ.

تخريج: [حسن] تقدم: ١٢٨٣ ﷺ وفي الباب عن علي [تقدم: ١٢٨٤].

Comments:

The people of knowledge unanimously agree that a mother and child should not be separated until the child reaches the age of maturity. It is not allowed to separate the small children of a slave family from their parents or from each other.

Chapter 18. What Has Been Related About Killing Captives And Ransoming

(المعجم ١٨) - بَابُ مَا جَاءَ فِي قَتْلِ الْأُسَارَى وَالْفِدَاءِ (التحفة ١٨)

1567. 'Alī narrated that the Messenger of Allāh ﷺ said that Jibrā'īl had indeed descended upon him to say to him: "Tell them – meaning your Companions – to choose regarding the captives of Badr, between either killing them or ransoming them, so that the amount killed by them will correspond similarly to them." So they said: "Ransom, even though some of us may be killed." (***Da'īf***)

There are narrations on this topic from Ibn Mas'ūd, Anas, Abū Barzah, and Jubair bin Muṭ'im.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb* as a narration of Ath-Thawrī. We do not know of it except through the report of Zā'idah.

Abū Usāmah reported similar to this from Hishām, from Ibn Sīrīn, from 'Abīdah, from 'Alī, from the Prophet ﷺ.

Ibn 'Awn reported it from Ibn

١٥٦٧ - حَدَّثَنَا أَبُو عُبَيْدَةَ بْنُ أَبِي السَّفَرِ - واسْمُهُ أَحْمَدُ بْنُ عَبْدِ اللهِ الْهَمْدَانِيُّ - ومَحْمُودُ بْنُ غَيْلَانَ قَالَا: حَدَّثَنَا أَبُو دَاوُدَ الْحَفَرِيُّ: حَدَّثَنَا يَحْيَى بْنُ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ عَنْ سُفْيَانَ بْنِ سَعِيدٍ، عَنْ هِشَامٍ، عَنِ ابْنِ سِيرِينَ، عَنْ عَبِيدَةَ، عَنْ عَلِيٍّ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِنَّ جِبْرَائِيلَ هَبَطَ عَلَيْهِ فَقَالَ لَهُ: خَيِّرْهُمْ - يَعْنِي أَصْحَابَكَ - فِي أُسَارَى بَدْرٍ، الْقَتْلَ أَوِ الْفِدَاءَ عَلَى أَنْ يُقْتَلَ مِنْهُمْ قابِلٌ مِثْلَهُمْ» قَالُوا: الفِدَاءَ ويُقْتَلُ مِنَّا.

وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ، وأَنَسٍ، وأَبِي بَرْزَةَ، وجُبَيْرِ بْنِ مُطْعِمٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ الثَّوْرِيِّ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ ابْنِ أَبِي زَائِدَةَ.

وَرَوَى أَبُو أُسَامَةَ عَنْ هِشَامٍ، عَنِ ابْنِ سِيرِينَ،

Sīrīn, from 'Abīdah, from 'Alī, from the Prophet ﷺ in *Mursal* form.

Abū Dāwud Al-Ḥafrī's (a narrator in this chain) name is 'Umar bin Sa'd.

عَنْ عَبِيدَةَ، عَنْ عَلِيٍّ عَنِ النَّبِيِّ ﷺ نَحوَهُ.

ورَوَى ابْنُ عَونٍ عَنِ ابْنِ سِيرِينَ، عَنْ عَبِيدَةَ، عَنْ عَلِيٍّ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

وأَبُو دَاوُدَ الحَفرِيُّ اسْمُهُ عُمَرُ بْنُ سَعْدٍ.

تخريج: [إسناده ضعيف] وأخرجه النسائي في الكبرى، ح:٨٦٦٢ من حديث أبي داود الحفري به * هشام بن حسان عنعن * وفي الباب عن ابن مسعود [يأتي:١٧١٤، ٣٠٨٤ بغير هذا اللفظ في أسارى بدر] وأنس [أحمد:٣/ ٢٤٣ في الفداء بغير هذا اللفظ] وأبي برزة [لم أجده] وجبير بن مطعم [أحمد:٤/ ٨٣، ٨٥ بغير هذا اللفظ].

Comments:

The Companions of the Prophet ﷺ preferred the opinion of Abū Bakr against the opinion of 'Umar. 'Umar gave the opinion to kill the prisoners of Badr, but Abū Bakr's opinion was to forgive them, and treat them with kindness as they were their relatives, and they should be released after receiving ransom from them. The money received from them as ransom could be used for religious works, and there was also possibility that in future they may accept Islam or their children may become Muslims. In the future if seventy of them were martyred, it would be their good fortune to attain the status of martyrs.

1568. 'Imrān bin Ḥuṣain narrated that the Prophet ﷺ ransomed two men from the Muslims with a man from the idolaters. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This Ḥadīth is *Ḥasan Ṣaḥīḥ*.

The paternal uncle of Abū Al-Muhallab's name is 'Abdur-Raḥmān bin 'Amr, and they also say it was Mu'āwiyah bin 'Amr. And Abū Qilābah's name is 'Abdullāh bin Zaid Al-Jarmī (narrator in the chain).

This is acted upon according to most of the people of knowledge among the Companions of the Prophet ﷺ and others. It is for the Imām to decide to be generous with whom he wills among the captives, or to kill whom he wills among them, or to ransom whom

١٥٦٨ - **حَدَّثَنَا** ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ: حَدَّثَنَا أَيُّوبُ عَنْ أَبِي قِلَابَةَ، عَنْ عَمِّهِ، عَنْ عِمْرَانَ بْنِ حُصَيْنٍ: أَنَّ النَّبِيَّ ﷺ فَدَى رَجُلَيْنِ مِنَ الْمُسْلِمِينَ بِرَجُلٍ مِنَ الْمُشْرِكِينَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَعَمُّ أَبِي قِلَابَةَ هُوَ أَبُو الْمُهَلَّبِ واسْمُهُ عَبْدُ الرَّحْمٰنِ بْنُ عَمْرٍو، ويُقَالُ: مُعاوِيَةُ بْنُ عَمْرٍو. وأَبُو قِلَابَةَ اسْمُهُ عَبْدُ اللهِ بْنُ زَيْدٍ الجَرْمِيُّ.

والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ أَنَّ لِلْإِمَامِ أَنْ يَمُنَّ عَلَى مَنْ شَاءَ مِنَ الْأُسارَى، ويَقْتُلَ مَنْ

شَاءَ مِنْهُمْ، وَيَفْدِي مَنْ شَاءَ، واخْتَارَ بَعْضُ أَهْلِ الْعِلْمِ الْقَتْلَ عَلَى الفِدَاءِ.

وقَالَ الْأَوْزَاعِيُّ: بَلَغَنِي أَنَّ هٰذِهِ الآيَةَ مَنْسُوخَةٌ. قَوْلُهُ تَعالَى: ﴿فَإِمَّا مَنًّا بَعْدُ وَإِمَّا فِدَآءً﴾ [محمد: ٤] نَسَخَتْها ﴿وَٱقْتُلُوهُمْ حَيْثُ ثَقِفْتُمُوهُمْ﴾ [البقرة: ١٩١].

حَدَّثَنَا بِذٰلِكَ هَنَّادٌ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنِ الْأَوْزَاعِيِّ.

قَالَ إِسْحَاقُ بْنُ مَنْصُورٍ: قُلْتُ لأَحْمَدَ: إذا أُسِرَ الْأَسِيرُ يُقْتَلُ، أَوْ يُفَادَى أَحَبُّ إِلَيْكَ؟ قَالَ: إِنْ قَدِرُوا أَنْ يُفادُوا فَلَيْسَ بِهِ بَأْسٌ، وإِنْ قُتِلَ فَمَا أَعْلَمُ بِهِ بَأْسًا. قَالَ إِسْحَاقُ: الإِثْخَانُ أَحَبُّ إِلَيَّ إِلَّا أَنْ يَكُونَ مَعْرُوفًا فَأَطْمَعُ بِهِ الكَثِيرَ.

he wills among them. Some of the people of knowledge preferred killing over ransoming.

Al-Awzā'ī said: "It has been conveyed to me, that this *Āyah* is abrogated: Thereafter (is the time) either for generosity (to free them without ransom) or ransom.[1] it was abrogated by: And kill them wherever you find them.."[2] This was narrated to us by Hannād (who said): "Ibn Al-Mubārak narrated to us, from Al-Awzā'ī."

Isḥāq bin Manṣūr said: "I said to Aḥmad: 'When the captives are captured' is killing or ransoming better to you?' He said: 'If they are able to ransom' then there is no harm in it. And if they kill, then I do not know of any harm in it.'" Isḥāq said: "Wiping them out is better to me, unless it is someone well-known, so that it is hoped that a large amount will be obtained for him."

تخريج: [إسناده صحيح] وأخرجه النسائي في الكبرى، ح: ٨٦٦٤ من حديث سفيان بن عيينة، ومسلم، ح: ١٦٤١/٨ من حديث أيوب به مطولاً ومختصرًا * قول الأوزاعي صحيح عنه.

Comments:

Most of the people of knowledge say that it is the right and privilege of the *Amīr* or of the Head of the State to treat the prisoners according to the situation. He can put them in jail or forgive them after receiving ransom, or he can release them without receiving anything from them. This point of view is correct.

Chapter 19. What Has Been Related About The Prohibition Of Killing Women And Children

(المعجم ١٩) - بَابُ مَا جَاءَ فِي النَّهْيِ، عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ (التحفة ١٩)

١٥٦٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ

1569. Ibn 'Umar narrated that a

[1] *Muḥammad* 47:4.

[2] *Al-Baqarah* 2:191.

نَافِعٍ، عَنِ ابْنِ عُمَرَ أَخْبَرَهُ: أَنَّ امْرَأَةً وُجِدَتْ فِي بَعْضِ مَغَازِي رَسُولِ اللهِ ﷺ مَقْتُولَةً فَأَنْكَرَ رَسُولُ اللهِ ﷺ ذٰلِكَ، ونَهَى عَنْ قَتْلِ النِّسَاءِ والصِّبْيَانِ

woman was found killed in one of the expeditions of the Messenger of Allāh ﷺ, so the Messenger of Allāh ﷺ rebuked that, and he prohibited killing women and children. (*Ṣaḥīḥ*)

وفِي الْبَابِ عَنْ بُرَيْدَةَ وَرَبَاحٍ - ويُقَالُ رِيَاحُ بْنُ الرَّبِيعِ - والْأَسْوَدِ بْنِ سَرِيعٍ، وابْنِ عَبَّاسٍ، والصَّعْبِ بْنِ جَثَّامَةَ.

There are narrations on this topic from Buraidah and Rabāḥ – and they say he was Riyāḥ – bin Ar-Rabī', Al-Aswad bin Sarī', Ibn 'Abbās, and Aṣ-Ṣa'b bin Jaththāmah.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وَغَيْرِهِمْ، كَرِهُوا قَتْلَ النِّسَاءِ وَالوِلْدَان. وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ، والشَّافِعِيِّ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of the people of knowledge among the Companions of the Prophet ﷺ and others. They disliked killing women and children. This is the view of Sufyān Ath-Thawrī and Ash-Shāfi'ī.

ورَخَّصَ بَعْضُ أَهْلِ الْعِلْمِ في البَيَاتِ وَقَتْلِ النِّسَاءِ فِيهِم والوِلْدَانِ، وهُوَ قَوْلُ أَحْمَدَ، وإِسْحَاقَ، ورَخَّصَا فِي البَيَاتِ.

Some of the people of knowledge made an exception for killing the women who had children with them during night attacks, this is the view of Aḥmad and Isḥāq, they permitted it in night attacks.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب قتل الصبيان في الحرب، ح:٣٠١٤ ومسلم، ح:١٧٤٤ من حديث الليث بن سعد به * وفي الباب عن بريدة [يأتي:١٦١٧ وتقدم:١٤٠٨] ورباح [أبو داود، ح:٢٦٦٩ وابن ماجه، ح:٢٨٤٢] والأسود بن سريع [أحمد:٣/ ٤٣٥، ٤/ ٢٤ والدارمي، ح:٢٤٦٦] وابن عباس [مسلم، ح:١٨١٢] والصعب بن جثامة [يأتي: ١٥٧٠].

Comments:

Generally, if the women and children are not taking part in the fight, or they are becoming a hindrance in reaching the enemy, it is not allowed to kill them. In the case where the women are participating in the battle in any form, it is allowed to kill them. If they are unintentionally killed in night raids, when it is difficult then there is no violation.

١٥٧٠ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: أَخْبَرَنِي الصَّعْبُ بْنُ جَثَّامَةَ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ إِنَّ

1570. Ibn 'Abbās narrated: "I was informed by Aṣ-Ṣa'b bin Jaththāmah who said: 'I said: "O Messenger of Allāh our horses trampled over women and children

of the idolaters." He said: 'They are from their fathers.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

خَيْلَنَا أَوْطَئَتْ مِنْ نِسَاءِ الْمُشْرِكِينَ وأَوْلَادِهِم، قَالَ: «هُمْ مِنْ آبائِهِمْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب أهل الدار يبيتون فيصاب الولدان والذراري . . . إلخ، ح:٣٠١٢، ٣٠١٣ ومسلم، ح:١٧٤٥ من حديث سفيان بن عيينة به.

Chapter 20. The Prohibition Of Burning With Fire

(المعجم ٢٠) - بَابُ [النَّهْيِ عَنِ الْإِحْرَاقِ بِالنَّارِ] (التحفة ٢٠)

1572. Abū Hurairah narrated: "The Messenger of Allāh ﷺ sent us with an army and said: 'If you see so-and-so, and so-and-so' referring to two men from the Quraish: 'then burn them with fire.' Then, upon our departure, the Messenger of Allāh ﷺ said: 'I ordered you to burn so-and-so, and so-and-so with fire, and indeed, none punishes with fire except Allāh. So if you see them, then kill them.'" (*Ṣaḥīḥ*)

There are narrations on this topic from Ibn 'Abbās and Ḥamzah bin 'Amr Al-Aslamī.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*. This is acted upon according to the people of knowledge. In this *Ḥadīth*, Muḥammad bin Isḥāq mentioned a man (narrating) between Sulaimān bin Yasār and Abū Hurairah. Others reported this *Ḥadīth* the same as Al-Laith reported it (here, without a man between them). The narration of Al-Laith bin Sa'd is more appropriate and more correct.

١٥٧١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ بُكَيْرِ بْنِ عَبْدِ اللهِ، عَنْ سُلَيْمَانَ بْنِ يَسَارٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: بَعَثَنَا رَسُولُ اللهِ ﷺ فِي بَعْثٍ، فَقَالَ: «إِنْ وَجَدْتُمْ فُلَانًا وَفُلَانًا» لِرَجُلَيْنِ مِنْ قُرَيْشٍ «فَأَحْرِقُوهُمَا بِالنَّارِ»، ثُمَّ قَالَ رَسُولُ اللهِ ﷺ حِينَ أَرَدْنَا الخُرُوجَ: «إِنِّي كُنْتُ أَمَرْتُكُمْ أَنْ تَحْرِقُوا فُلَانًا وَفُلَانًا بِالنَّارِ، وإِنَّ النَّارَ لَا يُعَذِّبُ بِهَا إِلَّا اللهُ، فَإِنْ وَجَدْتُمُوهُمَا فَاقْتُلُوهُمَا».

وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ، وَحَمْزَةَ بْنِ عَمْرٍو الْأَسْلَمِيِّ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ. وقَدْ ذَكَرَ مُحَمَّدُ بْنُ إِسْحَاقَ بَيْنَ سُلَيْمَانَ بْنِ يَسَارٍ وبَيْنَ أَبِي هُرَيْرَةَ رَجُلًا فِي هٰذَا الْحَدِيثِ. ورَوَى غَيْرُ واحِدٍ مِثْلَ رِوَايَةِ اللَّيْثِ. وحَدِيثُ اللَّيْثِ بْنِ سَعْدٍ أَشْبَهُ وَأَصَحُّ.

تخريج: وأخرجه البخاري، الجهاد والسير، باب: لا يعذب بعذاب الله، ح:٣٠١٦ عن قتيبة به * وفي الباب عن ابن عباس [تقدم:١٤٥٨] وحمزة بن عمرو الأسلمي [أبو داود، ح:٢٦٧٣ وأحمد:٣/ ٤٩٤].

Comments:

In view of 'Umar and Ibn 'Abbās, burning alive is not allowed at all. In the view of some Companions, burning alive in retaliation is allowed to make it a lesson for others. The correct opinion is that no one should be burnt alive. In the case of defense in a battle, if the enemy is using firearms and fire spreading ordinance etc., it is allowed to use the same kind of weapons to kill the enemy. (*Al-Mughnī* v. 13. p. 138-139.)

Chapter 21. What Has Been Related About *Ghulūl*[1]

(المعجم ٢١) - **بَابُ مَا جَاءَ فِي الْغُلُولِ**

(التحفة ٢١)

1572. Thawbān narrated that the Messenger of Allāh ﷺ said: "Whoever dies and he is free of [three]: *Kibr* (Pride), *Ghulūl*, and debt, he will enter Paradise." (*Ṣaḥīḥ*)

There are narrations on this topic from Abū Hurairah and Zaid bin Khalid Al-Juhnī.

١٥٧٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ قَتَادَةَ، عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ، عَنْ ثَوْبَانَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ مَاتَ وهُوَ بَرِيءٌ مِنْ [ثَلَاثٍ]: الْكِبْرِ والغُلُولِ والدَّيْنِ، دَخَلَ الْجَنَّةَ».

وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وزَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ.

تخريج: [صحيح] وانظر الحديث الآتي * وفي الباب عن أبي هريرة [البخاري، ح:٦٧٠٧ ومسلم:١١٥/ ١٨٣] وزيد بن خالد الجهني [أبو داود، ح:٢٧١٠ وابن ماجه، ح:٢٨٤٨].

Comments:

Being innocent and guiltless from these three things means that he is very careful about human rights. It is obvious that he who is careful about the rights of his fellow human beings must be more careful about the right of Allāh), therefore, such a person hopes in Allāh's Mercy and Paradise.

1573. Thawbān narrated that the Messenger of Allāh ﷺ said: "Whoever's soul departs from his body while he is free of three: *Kanz* (buried treasure), *Ghulūl*, and debt,

١٥٧٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ، عَنْ مَعْدَانَ بْنِ أَبِي

[1] *Ghulūl* refers to goods stolen from the spoils of war, or concealed, before it is divided among the soldiers. It also carries the general meaning of unlawful wealth. See *Tuḥfat Al-Aḥwadhī*, and see *Ḥadīth* no. 1.

طَلْحَةَ، عَنْ ثَوْبَانَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ فَارَقَ الرُّوحُ الْجَسَدَ وَهُوَ بَرِيءٌ مِنْ ثَلَاثٍ: الكَنْزِ وَالغُلُولِ والدَّيْنِ دَخَلَ الجَنَّةَ» هٰكَذَا قَالَ سَعِيدٌ: الكَنْزِ، وقَالَ أَبُو عَوَانَةَ فِي حَدِيثِهِ: الكِبْرِ، ولَمْ يَذْكُرْ فِيهِ عَنْ مَعْدَانَ. ورِوَايَةُ سَعِيدٍ أَصَحُّ.

then he will enter Paradise." (***Da'īf***)

This is how Sa'eed narrated it: "*Kanz*" while Abū 'Awānah said in his narration: "*Kibr*" and he did not mention "from Ma'dān" in it. But the narration of Sa'eed is more correct.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الصدقات، باب التشديد في الدين، ح: ٢٤١٢ (نسخة هندية ص١٧٢) من حديث سعيد بن أبي عروبة به بلفظ آخر (من الكبر، بدل من الكنز) وصرح بالسماع وحديثه صحيح وتابعه شعبة وغيره وصححه ابن حبان، ح: ١٦٧٦ والحاكم: ٢/ ٢٦ على شرط الشيخين ووافقه الذهبي قتادة عنعن في هذا اللفظ "المكنز".

١٥٧٤ - **حَدَّثَنَا** الْحَسَنُ بْنُ عَلِيٍّ: حَدَّثَنَا عَبْدُ الصَّمَدِ بْنُ عبدِ الوارِثِ: حَدَّثَنَا عِكْرِمَةُ ابْنُ عَمَّارٍ: حَدَّثَنَا سِمَاكٌ أَبُو زُمَيْلٍ الحَنَفِيُّ قَالَ: سَمِعْتُ ابْنَ عَبَّاسٍ يَقُولُ: حَدَّثَنِي عُمَرُ ابْنُ الخَطَّابِ قَالَ: قِيلَ: يَا رَسُولَ اللهِ؛ إِنَّ فُلَانًا قَدِ اسْتُشْهِدَ، قَالَ: «كَلَّا! قَدْ رَأَيْتُهُ فِي النَّارِ بِعَبَاءَةٍ قَدْ غَلَّها»، قَالَ: «قُمْ يَا عُمَرُ فَنَادِ أَنَّهُ لَا يَدْخُلُ الْجَنَّةَ إِلَّا الْمُؤْمِنُونَ» ثَلَاثًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

1574. Simāk Abū Rumail Al-Ḥanafī said: "I heard Ibn 'Abbās saying: " 'Umar bin Al-Khaṭṭāb narrated to me that he said: "It was said: 'O Messenger of Allāh! So-and-so has been martyred.' He said: 'No! I saw him in the Fire because of a garment he pilfered from the spoils of war.' He said: 'Stand up O 'Umar! Call out that no one enters Paradise except the believers.' Three times." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb.*

تخريج: وأخرجه مسلم، الإيمان، باب غلظ الغلول وأنه لا يدخل الجنة إلا المؤمنون، ح: ١١٤ من حديث عكرمة بن عمار به.

Comments:

This narration makes it clear that a fighter who takes anything from the spoils of war without the permission of the army chief commits the crime of embezlement, which eclipses the high status of martyrdom. He who is an offender of stealing from the spoils of war will not go to Paradise.

Chapter 22. What Has Been Related About Women Going Out For War

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي خُرُوجِ النِّسَاءِ فِي الْحَرْبِ (التحفة ٢٢)

1575. Anas narrated: "The Messenger of Allāh ﷺ used to go to battle with Umm Sulaim, and other women with her, from the *Anṣār*, who would give water and tend to the wounded." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There is something on this topic from Ar-Rabī' bin Mu'awwidh. This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٧٥ - حَدَّثَنَا بِشْرُ بْنُ هِلَالٍ الصَّوَّافُ: حَدَّثَنَا جَعْفَرُ بْنُ سُلَيْمَانَ الضُّبَعِيُّ عَنْ ثَابِتٍ، عَنْ أَنَسٍ قَالَ: كانَ رَسُولُ اللهِ ﷺ يَغْزُو بِأُمِّ سُلَيْمٍ ونِسْوَةٍ مَعَهَا مِنَ الْأَنْصَارِ يَسْقِينَ الْمَاءَ، ويُدَاوِينَ الجَرْحَى.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ الرُّبَيِّعِ بِنْتِ مُعَوِّذٍ. وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الجهاد، باب غزوة النساء مع الرجال، ح:١٨١٠ من حديث جعفر ابن سليمان به * وفي الباب عن الربيع بنت معوذ [البخاري، ح:٢٨٨٢].

Comments:

For the essential services of the forces like emergency medical help, care of the wounded, and transportation of martyrs to a safe place, it is allowed to take the women to the battlefield. For the purposes mentioned above, a very careful selection of females should be made. The military administration should make sure that the presence of female members is not a hindrance in the performance of duties or affecting the morals of the soldiers.

Chapter 23. What Has Been Related About Accepting Gifts From The Idolaters

(المعجم ٢٣) - بَابُ مَا جَاءَ فِي قُبُولِ هَدَايَا الْمُشْرِكِينَ (التحفة ٢٣)

1576. 'Alī narrated from the Prophet ﷺ, that Kisra sent him a gift so he accepted, and that kings gave him gifts and he accepted them. (***Ḍa'īf***)

There is something about this from Jābir. This is a *Ḥasan Gharīb Ḥadīth*. Thuwair (a narrator in the chain) is Ibn Abī Fākhitah, whose name was Sa'eed bin 'Ilāqah, and Thuwair's *Kunyah* was Abū Jahm.

١٥٧٦ - حَدَّثَنَا عَلِيُّ بْنُ سَعِيدٍ الكِنْدِيُّ: حَدَّثَنَا عَبْدُ الرَّحِيمِ بْنُ سُلَيْمَانَ عَنْ إِسْرَائِيلَ، عَنْ ثُوَيْرٍ، عَنْ أَبِيهِ، عَنْ عَلِيٍّ عَنِ النَّبِيِّ ﷺ: أَنَّ كِسْرَى أَهْدَى لَهُ فَقَبِلَ، وَأَنَّ الْمُلُوكَ أَهْدَوْا إِلَيْهِ فَقَبِلَ مِنْهُمْ.

وفِي الْبَابِ عَنْ جَابِرٍ، وهٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَثُوَيْرٌ هُوَ ابْنُ أَبِي فَاخِتَةَ اسْمُهُ سَعِيدُ ابْنُ عِلَاقَةَ، وَثُوَيْرٌ يُكْنَى أَبَا جَهْمٍ.

تخريج: [إسناده ضعيف] وأخرجه أحمد:١/٩٦ من حديث إسرائيل به * ثوير ضعيف رمي بالرفض

(تقريب) * وفي الباب عن جابر [ابن عدي في الكامل: ٦/ ٢١١٤] بغير هذا اللفظ وسنده ضعيف جدًا.

Comments:

Gifts from non-Muslim kings and head of states can be accepted for diplomacy and to develop good relations to save the Muslims living near the borders. In the greater interest of Muslims it is allowed to accept gifts from non-Muslims.

Chapter 24. About The Gifts Of The Idolaters Being Disliked

(المعجم ٢٤) - [بَابٌ: فِي كَرَاهِيَةِ هَدَايَا الْمُشْرِكِينَ] (التحفة ٢٤)

1577. 'Iyāḍ bin Ḥimār narrated that he gave the Prophet ﷺ a gift or a camel, so the Prophet ﷺ said: "Have you accepted Islām?" He said: "No." He said: "Then I have been prohibited from the *Zabd* (gifts) of the idolaters." (***Hasan***)

Abū 'Eīsā said: This *Hadīth* is *Hasan Sahīh*. And the meaning of his saying: "I have been prohibited from the *Zabd* (gifts) of the idolaters" is their gifts.

It has been reported about the Messenger ﷺ that he used to accept the gifts of the idolaters while a dislike for that is mentioned in this *Hadīth*.

And the implication is that this was after he used to accept from them, and then he later forbade their gifts.

١٥٧٧ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو دَاوُدَ عَنْ عِمْرَانَ الْقَطَّانِ، عَنْ قَتَادَةَ، عَنْ يَزِيدَ بْنِ عَبْدِ اللهِ [هُوَ] ابْنُ الشِّخِّيرِ، عَنْ عِيَاضِ بْنِ حِمَارٍ: أَنَّهُ أَهْدَى لِلنَّبِيِّ ﷺ هَدِيَّةً [أَوْ] نَاقَةً، فَقَالَ النَّبِيُّ ﷺ: «أَسْلَمْتَ؟» قَالَ: لَا: قَالَ: «فَإِنِّي نُهِيتُ عَنْ زَبْدِ الْمُشْرِكِينَ».

قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. ومَعْنَى قَوْلِهِ: «إِنِّي نُهِيتُ عَنْ زَبْدِ الْمُشْرِكِينَ» يَعْنِي هَدَايَاهُمْ.

وقَدْ رُوِيَ عَنِ النَّبِيِّ ﷺ أَنَّهُ كَانَ يَقْبَلُ مِنَ الْمُشْرِكِينَ هَدَايَاهُم، وذُكِرَ في هٰذَا الْحَدِيثِ الكَرَاهِيَةُ، واحْتَمَلَ أَنْ يَكُونَ هٰذَا بَعْدَ ما كانَ يَقْبَلُ مِنْهُمْ ثُمَّ نَهَى عَنْ هَدَايَاهُم.

تخريج: [حسن] وأخرجه أبو داود، الخراج، باب: في الإمام يقبل هدايا المشركين، ح: ٣٠٥٧ من حديث أبي داود الطيالسي به وهو في مسنده، ح: ١٠٨٣ وصححه ابن خزيمة، وابن الجارود، ح: ١١١٠ وغيرهما وسنده ضعيف وله شواهد عند أحمد: ٣/ ٤٠٢ وغيره وانظر صحيح البخاري مع الفتح: ٥/ ٢٣٠ لمعارضته، فالأمر هاهنا للاستحباب والله أعلم.

Chapter 25. What Has Been Related About The Prostration of Gratitude (*Sajdah Ash-Shukr*)

(المعجم ٢٥) - بَابُ مَا جَاءَ فِي سَجْدَةِ الشُّكْرِ (التحفة ٢٥)

1578. Abū Bakrah narrated: "The

١٥٧٨ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا

أَبُو عَاصِمٍ: حَدَّثَنَا بَكَّارُ بْنُ عَبْدِ الْعَزِيزِ بْنِ أَبِي بَكْرَةَ عَنْ أَبِيهِ، عَنْ أَبِي بَكْرَةَ: أَنَّ النَّبِيَّ ﷺ أَتَاهُ أَمْرٌ فَسُرَّ بِهِ فَخَرَّ للهِ سَاجِدًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ بَكَّارِ بْنِ عَبْدِ الْعَزِيزِ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ رَأَوْا سَجْدَةَ الشُّكْرِ [وبَكَّارُ ابنُ عَبْدِالْعَزِيزِ بْنِ أَبِي بَكْرَةَ مُقَارِبُ الْحَدِيثِ].

Prophet ﷺ was met by some affair that made him happy, so he prostrated to Allāh." (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*, we do not know of it except from this route, as a narration of Bakkār bin 'Abdul-'Azīz.

This is acted upon according to most of the people of knowledge, they held the view that one could perform the prostration of gratitude. [And Bakkār bin 'Abdul-'Azīz bin Abī Bakrah is *Muqārib* (average) in *Hadīth*.]

تخريج: [**إسناده حسن**] وأخرجه أبو داود، الجهاد، باب: في سجود الشكر، ح:٢٧٧٤ وابن ماجه، ح:١٣٩٤ من حديث أبي عاصم به وصححه البوصيري.

Comments:

On hearing good news, prostrating before Allāh as an acknowledgement of His mercy and blessings is proved from *Sahīh* narrations. Imām Shāfi'ī and Ahmad both have the same view. Some of the scholars say that this is not proven by any authentic narration from the Messenger of Allāh ﷺ. But this is not the case.

Chapter 26. What Has Been Related About The Assurance Of Protection Granted By A Woman And A Slave

(المعجم ٢٦) - بَابُ مَا جَاءَ فِي أَمَانِ الْمَرْأَةِ وَالْعَبْدِ (التحفة ٢٦)

١٥٧٩ - حَدَّثَنَا يَحْيى بْنُ أَكْثَمَ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ أَبِي حَازِمٍ عَنْ كَثِيرِ بْنِ زَيْدٍ، عَنِ الوَلِيدِ بْنِ رَبَاحٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ الْمَرْأَةَ لَتَأْخُذُ لِلْقَوْمِ يَعْنِي تُجِيرُ عَلَى الْمُسْلِمِينَ».

وفِي الْبَابِ عَنْ أُمِّ هانِيءٍ وهٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ [وسَأَلْتُ مُحَمَّدًا فَقَالَ: هٰذَا حَدِيثٌ صَحِيحٌ وكَثِيرُ بْنُ زَيْدٍ قَدْ سَمِعَ مِنَ الوَلِيدِ بْنِ رَبَاحٍ والوَلِيدُ بْنُ رَبَاحٍ سَمِعَ مِنْ أَبِي هُرَيْرَةَ وهُوَ مُقَارِبُ الحَدِيثِ].

1579. Abū Hurairah narrated that the Prophet ﷺ said: "Indeed a woman grants (assurances of protection) to a people" – meaning it is to be honored – "from the Muslims." (***Hasan***)

There is something on this topic from Umm Hāni, and this *Hadīth* is *Hasan Gharīb*. [I asked Muhammad and he said: "This *Hadīth* is *Sahīh*. Kathīr bin Zaid heard from Al-Walīd bin Rabāh, and Al-Walīd bin Rabāh heard from Abū Hurairah, and he is *Muqārib* (average) in *Hadīth*].

(Another chain) from Umm Hānī' who said: "I granted asylum for two men among my brother-in-laws. So the Messenger of Allāh ﷺ said: 'We grant security to whomever you have granted security.'" [1]

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

This is acted upon according to the people of knowledge. They permit the assurance of protection granted by a woman. This is the view of Aḥmad and Isḥāq: They permitted the asylum of a woman and a slave.

It has been related [from other routes] from 'Umar bin Al-Khaṭṭāb that he permitted the asylum granted by a slave.

(One of the narrators of this last narration) Abū Murrah is the freed slave of 'Aqīl bin Abī Ṭālib – they also say that he was the freed slave of Umm Ḥānī' – and his name was Yazīd.

It has been related from 'Alī bin Abī Ṭālib and 'Abdullāh bin 'Amr that the Prophet ﷺ said: "The covenants of the Muslims are one, it covers the rest of them." [2]

[Abū 'Eīsā said:] According to the people of knowledge, the meaning of this *Ḥadīth* is that whoever gives assurances of protection among the Muslims, then it is valid to all of them.

حَدَّثَنَا أَبُو الوَلِيدِ الدِّمَشْقِيُّ: حَدَّثَنَا الوَلِيدُ ابْنُ مُسْلِمٍ قَالَ: أَخْبَرَنِي ابْنُ أَبِي ذِئْبٍ عَنْ سَعِيدٍ المَقْبُرِيِّ، عَنْ أَبِي مُرَّةَ مَوْلَى عَقِيلِ بْنِ أَبِي طَالِبٍ، عَنْ أُمِّ هَانِىءٍ أَنَّهَا قَالَتْ: أَجَرْتُ رَجُلَيْنِ مِنْ أَحْمَائِي، فَقَالَ رَسُولُ اللهِ ﷺ: «قَدْ أَمَّنَّا مَنْ أَمَّنْتِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ، أَجَازُوا أَمانَ الْمَرْأَةِ، وهُوَ قَوْلُ أَحْمَدَ، وإِسْحَاقَ، أَجَازَا أَمَانَ الْمَرْأَةِ والعَبْدِ. وقَدْ رُوِيَ [مِنْ غَيْرِ وَجْهٍ] عَنْ عُمَرَ بْنِ الخَطَّابِ أَنَّهُ أَجَازَ أَمانَ الْعَبْدِ. وأَبُو مُرَّةَ مَوْلَى عَقِيلِ ابْنِ أَبِي طَالِبٍ، ويُقَالُ لَهُ أَيْضًا مَوْلَى أُمِّ هَانِىءٍ، واسْمُهُ يَزِيدُ.

و[قَدْ] رُوِيَ عَنْ عَلِيٍّ بْنِ أَبِي طَالِبٍ وعَبْدِ اللهِ بْنِ عَمْرٍو عَنِ النَّبِيِّ ﷺ قَالَ: «ذِمَّةُ المُسْلِمِينَ واحِدَةٌ يَسْعَى بِهَا أَدْنَاهُمْ».

[قَالَ أَبُو عِيسَى:] مَعْنَى هٰذَا عِنْدَ أَهْلِ الْعِلْمِ أَنَّ مَنْ أَعْطَى الْأَمانَ مِنَ الْمُسْلِمِينَ فَهُوَ جَائِزٌ عَلَى كُلِّهِمْ.

تخريج: [حسن] وأخرجه أحمد: ٢/ ٣٦٥ من حديث كثير بن زيد به * وفي الباب عن أم هانىء [يأتي بعده: ٢٧٣٤] * حديث أم هانىء، حديث صحيح ورواه خالد بن الحارث عن ابن أبي

[1] Part of that version appears in number 2734, and it is authentic.

[2] It is also authentic, and appears in number 2127.

ذئب به مطولاً (النسائي في الكبرى، ح:٨٦٨٤) وأخرجه البخاري ومسلم من حديث مالك عن سالم أبي النضر عن أبي مرة به كما سيأتي، ح:٢٧٣٤ * حديث: "ذمة المسلمين واحدة ... إلخ"، سيأتي:٢١٢٧.

Comments:

The meaning is that if one of the Muslims gives protection to a disbeliever, all of the Muslims are required to honor that protection. (See for details *Al-Mughnī* v. 13. p.75-76.)

Chapter 27. What Has Been Related About Breaking Treaties

(المعجم ٢٧) - بَابُ مَا جَاءَ فِي الْغَدْرِ

(التحفة ٢٧)

1580. Abū Al-Faiḍ said: "I heard Sulaim bin 'Āmir saying: 'There was a treaty between Mu'āwiyah and the people of Rome. He was making an expedition into their lands so that when the period of the treaty was expires he could attack them. So when a man upon an animal' – or – 'upon a horse said: "*Allāhu Akbar*! Fulfillment not betrayal!" – and it turned out to be 'Amr bin 'Abasah – Mu'āwiyah asked him about that. He said: "I heard the Messenger of Allāh ﷺ say: 'Whoever has a treaty between himself and a people, then let him not violate the treaty nor try to change it until its time has passed, or, in retribution for a similar offense.'" He said: "So Mu'āwiyah returned with the people." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٨٠ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ قَالَ: أَنْبَأَنَا شُعْبَةُ قَالَ: أَخْبَرَنِي أَبُو الْفَيْضِ قَالَ: سَمِعْتُ سُلَيْمَ بْنَ عَامِرٍ يَقُولُ: كانَ بَيْنَ مُعَاوِيَةَ وبَيْنَ أَهْلِ الرُّومِ عَهْدٌ، وكانَ يَسِيرُ في بِـلَادِهِم، حَتَّى إِذا انْقَضَى العَهْدُ أَغَارَ عَلَيْهِمْ، فَإِذا رَجُلٌ عَلَى دَابَّةٍ أَوْ عَلَى فَرَسٍ وهُوَ يَقُولُ: اللهُ أَكْبَرُ وَفَاءٌ لَا غَدْرٌ، وإِذا هُوَ عَمْرُو بْنُ عَبَسَةَ، فَسَأَلَهُ مُعَاوِيَةُ عَنْ ذٰلِكَ، فَقَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ كانَ بَيْنَهُ وبَيْنَ قَوْمٍ عَهْدٌ فَلَا يَحُلَّنَّ عَهْدًا ولَا يَشُدَّنَّهُ حَتَّى يَمْضِيَ أَمَدُهُ أَوْ يَنْبِذَ إِلَيْهِمْ عَلَى سَوَاءٍ» قَالَ: فَرَجَعَ مُعَاوِيَةُ بالنَّاسِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الجهاد، باب: في الإمام يكون بينه وبين العدو عهد فيسيره نحوه، ح:٢٧٥٩ من حديث شعبة به وهو في مسند الطيالسي، ح:١١٥٥ وصححه ابن حبان، ح:١٦٨١.

Comments:

The Companions of the Prophet ﷺ helped each other in deeds of virtue and they would avoid breaking the promises and treaties. This narration also

proves Mu'āwiyah's zeal for what is correct. If any law or legal command was not known to him, on knowing the real fact's he acted upon it according to the truth.

Chapter 28. What Has Been Related About: For Each Person Who Betrays A Treaty There Is A Banner Erected On The Day Of Judgement

(المعجم ٢٨) - بَابُ مَا جَاءَ أَنَّ لِكُلِّ غَادِرٍ لِوَاءً يَوْمَ الْقِيَامَةِ (التحفة ٢٨)

1581. Ibn 'Umar narrated the Messenger of Allāh ﷺ said: "Indeed the one who betrays will have a banner erected for him on the Day of Judgement." (***Saḥīḥ***)

[He said:] There are narrations on this topic from 'Alī, 'Abdullāh bin Mas'ūd, Abū Sa'eed Al-Khudrī, and Anas.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [I asked Muḥammad about the *Ḥadīth* of Suwaid, from Abū Isḥāq, from 'Umārah bin 'Umair, from 'Alī, from the Prophet ﷺ who said: "For every person who betrays there will be a banner." He said: "I do not know of this *Ḥadīth* being *Marfū'*"].[1]

١٥٨١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ قَالَ: حَدَّثَنَا صَخْرُ بْنُ جُوَيْرِيَةَ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «إِنَّ الْغَادِرَ يُنْصَبُ لَهُ لِوَاءٌ يَوْمَ الْقِيَامَةِ».

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ، وعَبْدِ اللهِ ابْنِ مَسْعُودٍ، وأَبِي سَعِيدٍ الْخُدْرِيِّ، وأَنَسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [وسَأَلْتُ مُحَمَّدًا عَنْ حَدِيثِ سُوَيْدٍ، عَنْ أَبِي إِسْحَاق، عَنْ عُمَارَةَ بْنِ عُمَيْرٍ، عَنْ عَلِيٍّ عَنِ النَّبِيِّ ﷺ قَالَ: «لِكُلِّ غَادِرٍ لِواء» فَقَالَ: لَا أَعْرِفُ هٰذَا الْحَدِيثَ مَرْفُوعًا].

تخريج: متفق عليه، أخرجه مسلم، الجهاد، باب تحريم الغدر، ح:١٧٣٥ من حديث صخر ابن جويرية والبخاري، ح:٣١٨٨ من حديث نافع به * وفي الباب عن علي [أشار إليه الترمذي وانظر العلل الكبير له:٢/٦٧٨] وعبد الله بن مسعود [البخاري، ح:٣١٨٦ ومسلم، ح:١٧٣٦] وأبي سعيد الخدري [مسلم، ح:١٧٣٨] وأنس [البخاري، ح:٣١٨٦ ومسلم، ح:١٧٣٧].

Comments:

Breaking promises is a major crime and its punishment on the Day of Judgement is that the betrayer will be humiliated before the people and a flag indicating his vice of betrayal will be fixed to his body.

[1] Meaning that version, while he recorded the narration of Ibn 'Umar, as well as others, in his *Ṣaḥīḥ*.

Chapter 29. What Has Been Related About Cessation For Arbitration

(المعجم ٢٩) - بَابُ مَا جَاءَ فِي النُّزُولِ عَلَى الْحُكْمِ (التحفة ٢٩)

1582. Jābir narrated: "On the day of (the battle of) *Al-Aḥzāb*, Sa'd bin Mu'ādh was struck by an arrow such that the upper vein or lower vein of his forearm was severed. So the Messenger of Allāh ﷺ tried to stop it with fire, but it made his arm bleed profusely so he left it. Then he did it another time but it caused it to bleed profusely. Upon seeing that he said: 'O Allāh! Do not allow my soul to depart until my eyes are comforted by the elimination of Banū Quraiẓah.' He pressed his vein closed and it did not bleed a drop before they surrendered to the arbitration of Sa'd bin Mu'adh. He (the Prophet ﷺ) sent for him (Sa'd) who judged that their men should be killed, their women should be spared, and that the Muslims may share them among themselves. With this, the Messenger of Allāh ﷺ said: 'You have judged according to Allāh's Judgement for them.' And they were four hundred. Then when he finished killing them, his vein opened up and he died." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Abū Sa'eed and 'Aṭiyyah Al-Quraẓī.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٨٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ أَنَّهُ قَالَ: رُمِيَ يَوْمَ الْأَحْزَابِ سَعْدُ بْنُ مُعَاذٍ فَقَطَعُوا أَكْحَلَهُ أَوْ أَبْجَلَهُ، فَحَسَمَهُ رَسُولُ اللهِ ﷺ بِالنَّارِ فَانْتَفَخَتْ يَدُهُ فَتَرَكَهُ، فَنَزَفَهُ الدَّمُ فَحَسَمَهُ أُخْرى فَانْتَفَخَتْ يَدُهُ، فَلَمَّا رَأَى ذٰلِكَ قَالَ: اللَّهُمَّ لَا تُخْرِجْ نَفْسِي حَتَّى تُقِرَّ عَيْنِي مِنْ بَنِي قُرَيْظَةَ، فَاسْتَمْسَكَ عِرْقُهُ فَمَا قَطَرَ قَطْرَةً حَتَّى نَزَلُوا عَلَى حُكْمِ سَعْدِ بْنِ مُعَاذٍ، فَأَرْسَلَ إِلَيْهِ فَحَكَمَ أَنْ يُقْتَلَ رِجَالُهُمْ وَتُسْتَحْيٰى نِسَاؤُهُمْ يَسْتَعِينُ بِهِنَّ الْمُسْلِمُونَ، فَقَالَ رَسُولُ اللهِ ﷺ: «أَصَبْتَ حُكْمَ اللهِ فِيهِم»، وَكَانُوا أَرْبَعَمِائَةٍ، فَلَمَّا فَرَغَ مِنْ قَتْلِهِمْ انْفَتَقَ عِرْقُهُ فَمَاتَ.

[قَالَ:] وَفِي الْبَابِ عَنْ أَبِي سَعِيدٍ، وَعَطِيَّةَ الْقُرَظِيِّ.

[قَالَ أَبُو عِيسَى:] وَهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه أحمد: ٣/ ٣٥٠ من حديث الليث بن سعد ومسلم، ح: ٢٢٠٨ من حديث أبي الزبير به مختصرًا ومطولًا * وفي الباب عن أبي سعيد [البخاري، ح: ٦٢٦٢ ومسلم، ح: ١٧٦٨] وعطية القرظي [يأتي: ١٥٨٤].

Comments:

Banū Quraiẓah were an ally of the Muslims, but they deceived the Muslims on the occasion of the 'Battle of Aḥzāb' which caused many difficulties for Muslims. Sa'd who was their ally from the time of *Jāhiliyyah* was shocked at their behaviour. He wanted to see Banū Quraiẓah punished for their offensive conduct.

1583. Samurah bin Jundab narrated that the Messenger of Allāh ﷺ said: "Kill the elder men among the idolaters and spare the *Sharkh* among them." (***Ḍa'īf***)

And the *Sharkh* are the boys who did not begin to grow pubic hair.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

Ḥajjāj bin Arṭāh narrated similarly from Qatādah.

١٥٨٣ - **حَدَّثَنَا** [أَحْمَدُ بْنُ عَبْدِ الرَّحْمٰنِ] أَبُو الوَلِيدِ الدِّمَشْقِيُّ: حَدَّثَنَا الوَلِيدُ بْنُ مُسْلِمٍ عَنْ سَعِيدِ بْنِ بَشِيرٍ، عَنْ قَتَادَةَ، عَنِ الحَسَنِ، عَنْ سَمُرَةَ بْنِ جُنْدَبٍ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «اقْتُلُوا شُيُوخَ الْمُشْرِكِينَ واسْتَحْيُوا شَرْخَهُمْ» وَالشَّرْخُ: الغِلْمَانُ الَّذِينَ لَمْ يُنْبِتُوا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

وَرَوَاهُ حَجَّاجُ بْنُ أَرْطَاةَ عَنْ قَتَادَةَ نَحْوَهُ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الجهاد، باب: في قتل النساء، ح: ٢٦٧٠ من حديث قتادة به وهو مدلس وعنعن.

1584. 'Aṭiyyah Al-Quraẓī narrated: "We were presented to the Messenger of Allāh ﷺ on the day of (the battle of) Quraiẓah. Whoever had pubic hair was killed and whoever did not was left to his way. I was of those who did not have pubic hair so I was left to my way." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is acted upon according to some of the people of knowledge. They consider pubic hair an indication of the age of responsibility, if it is not known whether he has had a wet dream, or his age. This is the view of Aḥmad and Isḥāq.

١٥٨٤ - **حَدَّثَنَا** هَنَّادٌ: حَدَّثَنَا وَكِيعٌ عَنْ سُفْيَانَ، عَنْ عَبْدِ الْمَلِكِ بْنِ عُمَيْرٍ، عَنْ عَطِيَّةَ الْقُرَظِيِّ قَالَ: عُرِضْنَا عَلَى رَسُولِ اللهِ ﷺ يَوْمَ قُرَيْظَةَ فَكانَ مَنْ أَنْبَتَ قُتِلَ وَمَنْ لَمْ يُنْبِتْ خُلِّيَ سَبِيلُهُ، فَكُنْتُ فِيمَنْ لَمْ يُنْبِتْ فَخُلِّيَ سَبِيلِي.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. والْعَمَلُ عَلَى هٰذَا عِنْدَ بَعْضِ أَهْلِ الْعِلْمِ: أَنَّهُمْ يَرَوْنَ الإِنْبَاتَ بُلُوغًا إِنْ لَمْ يُعْرَفِ احْتِلَامُهُ وَلَا سِنُّهُ، وهُوَ قَوْلُ أَحْمَدَ، وَإِسْحَاقَ.

تخريج: [صحيح] وأخرجه ابن ماجه، الحدود، باب من لا يجب عليه الحد، ح: ٢٥٤١ من

حديث وكيع به وصححه ابن الجارود، ح:١٠٤٥ ورواه أبو داود، ح:٤٤٠٤ من حديث سفيان الثوري، والنسائي، ح:٤٩٨٤ من حديث عبدالملك بن عمير به.

Comments:

This narration proves that if it has been decided to kill the enemy, then those among the enemy who are their leaders and those who are able to fight against the Muslims will be killed. It means only adults who are potential danger should be killed. Old persons and children who have not reached the age of puberty should not be killed. Discussion about the age of puberty has already been given in a previous narration.

Chapter 30. What Has Been Related About Oaths Of Allegiance

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي الْحِلْفِ (التحفة ٣٠)

1585. 'Amr bin Shu'aib narrated from his father, from his grandfather, that the Messenger of Allāh ﷺ said during his *Khuṭbah*: "Fulfill the allegiances sworn in *Jāhiliyyah* for it" – meaning Islām – "does not add to them except in gravity. And do not initiate new allegiances in Islām." ***(Ḥasan)***

[He said:] There are narrations on this topic from 'Abdur-Raḥmān bin 'Awf, Umm Salamah, Jubair bin Muṭ'im, Abū Huraira, Ibn 'Abbās, and Qais bin 'Āṣim.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٨٥ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا يَزِيدُ بْنُ زُرَيْعٍ: حَدَّثَنَا حُسَيْنٌ الْمُعَلِّمُ عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ أَنَّ رَسُولَ اللهِ ﷺ قَالَ فِي خُطْبَتِهِ: «أَوْفُوا بِحِلْفِ الْجَاهِلِيَّةِ فَإِنَّهُ لَا يَزِيدُهُ - يَعْنِي الْإِسْلَامَ - إِلَّا شِدَّةً، وَلَا تُحْدِثُوا حِلْفًا فِي الْإِسْلَامِ».

[قَالَ:] وَفِي الْبَابِ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ عَوْفٍ، وَأُمِّ سَلَمَةَ، وَجُبَيْرِ بْنِ مُطْعِمٍ، وَأَبِي هُرَيْرَةَ، وَابْنِ عَبَّاسٍ، وَقَيْسِ بْنِ عَاصِمٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده حسن] وأخرجه أحمد:٢/ ٢١٢، ٢١٣ من حديث حسين المعلم به وهذا طرف من الحديث الطويل، رواه أحمد:٢/ ١٧٩، ١٨٠، ١٨٢، ١٨٤، ١٨٧، ١٨٩، ١٩١، ١٩٢، ١٩٤، ٢٠٧، ٢١١، ٢١٢ وغيره * وفي الباب عن عبدالرحمن بن عوف [أحمد: ١/ ١٩٠، ١٩٣ والبخاري في الأدب المفرد، ح:٥٦٧ وابن حبان، ح:٢٠٦٢ والحاكم:٢/ ٢١٩، ٢٢٠] وأم سلمة [أبو يعلى:١٢/ ٣٣٠، ح:٦٩٠٢] وجبير بن مطعم [مسلم، ح:٢٥٣٠] وأبي هريرة [ابن حبان، ح:٢٠٦٣ والبيهقي:٦/ ٣٦٦] و[ابن عباس وابن حبان، ح:٢٠٦١ والطبراني في الكبير:١١/ ٢٨١، ح:١١٧٤٠] وقيس بن عاصم [أحمد:٥/ ٦١].

Comments:

The religion of Islam is a religion of peace and brotherhood. There is no need for taking oaths of allegiance between tribes after its victory in a land.

Chapter 31. About Taking The *Jizyah* From The Zoroastrians

(المعجم ٣١) - بَابٌ: فِي أَخْذِ الْجِزْيَةِ مِنَ الْمَجُوسِيِّ (التحفة ٣١)

1586. Bajālah bin 'Abdah narrated: "I was a scribe for Jaz' bin Mu'āwiyah at Manādhir when 'Umar's letter came to us (saying): 'Inspect the Zoroastrians around you to take the *Jizyah* from them. For indeed 'Abdur-Raḥmān bin 'Awf informed me that the Messenger of Allāh ﷺ took the *Jizyah* from the Zoroastrians of Hajar.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

١٥٨٦ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا أَبُو مُعَاوِيَةَ: حَدَّثَنَا الْحَجَّاجُ بْنُ أَرْطَاةَ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ بَجَالَةَ بْنِ عَبْدَةَ قَالَ: كُنْتُ كَاتِبًا لِجَزْءِ بْنِ مُعَاوِيَةَ عَلَى مَنَاذِرَ، فَجَاءَنَا كِتَابُ عُمَرَ: انْظُرْ مَجُوسَ مَنْ قِبَلَكَ فَخُذْ مِنْهُمُ الْجِزْيَةَ، فَإِنَّ عَبْدَ الرَّحْمٰنِ بْنَ عَوْفٍ أَخْبَرَنِي: أَنَّ رَسُولَ اللهِ ﷺ أَخَذَ الْجِزْيَةَ مِنْ مَجُوسِ هَجَرَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: [صحيح] ورواه البخاري، ح:٣١٥٦، ٣١٥٧ من حديث بجالة به انظر الحديث الآتي.

1587. Bajālah narrated that 'Umar would not take the *Jizyah* from the Zoroastrians until 'Abdur-Raḥmān bin 'Awf informed him that the Prophet ﷺ took the *Jizyah* from the Zoroastrians of Hajar." (*Ṣaḥīḥ*)

There is more dialogue in the *Ḥadīth* than this. And this *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٥٨٧ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ بَجَالَةَ: أَنَّ عُمَرَ كَانَ لَا يَأْخُذُ الْجِزْيَةَ مِنَ الْمَجُوسِ حَتَّى أَخْبَرَهُ عَبْدُ الرَّحْمٰنِ بْنُ عَوْفٍ: أَنَّ النَّبِيَّ ﷺ أَخَذَ الْجِزْيَةَ مِنْ مَجُوسِ هَجَرَ.

وفِي الْحَدِيثِ كَلَامٌ أَكْثَرُ مِنْ هٰذَا.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه البخاري، الجزية والموادعة، باب الجزية والموادعة مع أهل الذمة والحرب ... إلخ، ح:٣١٥٦، ٣١٥٧ حديث سفيان بن عيينة به.

1588. Mālik narrated from Az-Zuhrī, that Sā'ib bin Yazīd said: "The Messenger of Allāh ﷺ took the *Jizyah* from the Zoroastrians of Baḥrain, and 'Umar took it in Persia, and 'Uthmān took it from the Persians." (*Ḥasan*)

١٥٨٨ - حَدَّثَنَا الْحُسَيْنُ بْنُ أَبِي كَبْشَةَ الْبَصْرِيُّ: حَدَّثَنَا عَبْدُالرَّحْمٰنِ بْنُ مَهْدِيٍّ عَنْ مَالِكٍ، عَنِ الزُّهْرِيِّ، عَنِ السَّائِبِ بْنِ يَزِيدَ قَالَ: أَخَذَ رَسُولُ اللهِ ﷺ الْجِزْيَةَ مِنْ مَجُوسِ الْبَحْرَيْنِ وأَخَذَهَا عُمَرُ مِنْ فَارِسَ وأَخَذَهَا

عُثْمَانُ مِنَ الْفُرْسِ.

وَسَأَلْتُ مُحَمَّدًا عَنْ هٰذَا؟ فَقَالَ: هُوَ مالِكٌ عَنِ الزُّهْرِيِّ عَنِ النَّبِيِّ ﷺ.

I asked Muhammad about this, so he said: "It is: 'Mālik from Az-Zuhrī from the Prophet ﷺ.'"

تخريج: [حسن] وهو في الموطأ: ١/٢٧٨ بقوله: قال الزهري ... إلخ وله شواهد كثيرة منها مرسل سعيد بن المسيب، أخرجه البيهقي: ٩/ ١٩٠ بإسناد صحيح عنه.

Comments:

A tax (*Jizyah*) is imposed on non-Muslims living in a Muslim country against the security and protection provided to them to live in peace. They are supposed to help the Muslims in defense of the country as well as paying the tax.

Chapter 32. What Has Been Related About What Is Lawful From The Wealth Of *Ahl Adh-Dhimmah*

(المعجم ٣٢) - بَابُ مَا جَاءَ مَا يَحِلُّ مِنْ أَمْوَالِ أَهْلِ الذِّمَّةِ (التحفة ٣٢)

1589. 'Uqbah bin 'Āmir narrated: "I said: 'O Messenger of Allāh! We come across a people and they do not host us, and they do not give us our rights, and we do not take anything from them. So the Messenger of Allāh ﷺ said: 'If they refuse such that you can only take by force, then take.'" (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. It has been reported by Al-Laith bin Sa'd from Yazīd bin Abī Habīb as well.

This *Hadīth* only means that they would go out for battles and they would pass a people among whom they would not find any food to buy for a price. So the Prophet ﷺ told them: If they refuse to sell to you, such that you have to take it forcefully, then take it. This is how the explanation has been related in some of the *Ahādīth*. And it has been related that 'Umar bin Al-Khattāb, may Allāh be pleased with

١٥٨٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ لَهِيعَةَ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ أَبِي الْخَيْرِ، عَنْ عُقْبَةَ بْنِ عَامِرٍ قَالَ: قُلْتُ: يَا رَسُولَ اللهِ إِنَّا نَمُرُّ بِقَوْمٍ فَلَا هُمْ يُضَيِّفُونا، ولَا هُمْ يُؤَدُّونَ مَا لَنا عَلَيْهِمْ مِنَ الْحَقِّ، وَلَا نَحْنُ نَأْخُذُ مِنْهُمْ، فَقَالَ رَسُولُ اللهِ ﷺ: «إِنْ أَبَوْا إِلَّا أَنْ تَأْخُذُوا كَرْهًا فَخُذُوا».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ. وقَدْ رَوَاهُ اللَّيْثُ بْنُ سَعْدٍ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ أَيْضًا.

وإِنَّمَا مَعْنَى هٰذَا الْحَدِيثِ أَنَّهُمْ كانُوا يَخْرُجُونَ فِي الغَزْوِ فَيَمُرُّونَ بِقَوْمٍ ولَا يَجِدُونَ مِنَ الطَّعَامِ ما يَشْتَرُونَ بالثَّمَنِ، فَقَالَ النَّبِيُّ ﷺ: «إِنْ أَبَوْا أَنْ يَبِيعُوا إِلَّا أَنْ تَأْخُذُوا كَرْهًا فَخُذُوا». هٰكَذَا رُوِيَ فِي بَعْضِ الحَدِيثِ مُفَسَّرًا.

him, would order similarly.

وقَدْ رُوِيَ عَنْ عُمَرَ بْنِ الخَطَّابِ رَضِيَ اللهُ عَنْهُ أَنَّهُ كانَ يَأْمُرُ بِنَحْوِ هٰذَا.

تخريج: [صحيح] ورواه البخاري، الأدب، باب إكرام الضيف وخدمته إياه بنفسه . . . إلخ، ح:٦١٣٧ ومسلم، ح:١٧٢٧ من حديث الليث بن سعد عن يزيد بن أبي حبيب به.

Comments:

Hospitality of Arabs was an exemplary tradition, but the conduct of non-Muslims was extraordinarily biased against the Muslims. They not only neglected their traditional hospitality, but also refused to sell food to Muslims to show their hatred against them. There was no way out against their harsh behaviour, so the Muslims were allowed to use force for obtaining food, as it is impossible to continue a journey without foodstuff.

Chapter 33. What Has Been Related About *Hijrah*

(المعجم ٣٣) - بَابُ مَا جَاءَ فِي الْهِجْرَةِ (التحفة ٣٣)

1590. Ibn 'Abbās narrated that on the day of the Conquest of Makkah, the Messenger of Allāh ﷺ said: "There is no *Hijrah* after the conquest, there is only *Jihād* and intention, and when you are called to go forth (for battle), then go." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Abū Sa'eed, 'Abdullāh bin 'Amr, and 'Abdullāh bin Ḥubshī.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Sufyān Ath-Thawrī reported it similarly from Manṣūr bin Al-Mu'tamir.

١٥٩٠ - حَدَّثَنَا أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ: حَدَّثَنَا زِيَادُ بْنُ عبدِالله: حَدَّثَنَا مَنْصُورُ بْنُ الْمُعْتَمِرِ عَنْ مُجَاهِدٍ، عَنْ طَاوُسٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ يَوْمَ فَتْحِ مَكَّةَ: «لَا هِجْرَةَ بَعْدَ الْفَتْحِ وَلَكِنْ جِهَادٌ وَنِيَّةٌ، وإِذَا اسْتُنْفِرْتُمْ فَانْفِرُوا».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي سَعِيدٍ، وعَبْدِ اللهِ بْنِ عَمْرٍو، وعَبْدِ اللهِ بْنِ حُبْشِيٍّ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رَوَاهُ سُفْيَانُ الثَّوْرِيُّ عَنْ مَنْصُورِ ابْنِ الْمُعْتَمِرِ نَحْوَ هٰذَا.

تخريج: متفق عليه، وأخرجه البخاري، جزاء الصيد، باب: لا يحل القتال بمكة، ح:١٨٣٤ ومسلم، ح:١٣٥٣ من حديث منصور به * وفي الباب عن أبي سعيد [أحمد:٣/ ٢٢] وعبدالله بن عمرو [أحمد:٢/ ٢١٥] وعبدالله بن حبشي [أبو داود، ح:١٣٢٥، ١٤٤٩].

Comments:

After the conquest of Makkah, the people started entering the religion of Islam, and there was no problem with manifesting one's Islam in the land. People made homes where ever they wanted, and lived in different towns. Now there was no need for emigration, (from Makkah to Al-Madīnah) but people moved from one place to another place for *Ḥajj, 'Umrah, Jihād* and

the acquisition of knowledge, etc., this type of movement and travel is not migration. The place or country where it is not possible to protect one's faith, and there is no other choice except emigration, then it is necessary to emigrate to a safe place.

Chapter 34. What Has Been Related About Giving the Pledge To The Prophet ﷺ

(المعجم ٣٤) - بَابُ مَا جَاءَ فِي بَيْعَةِ النَّبِيِّ ﷺ (التحفة ٣٤)

1591. Yaḥya bin Abī Kathīr narrated from Abū Salamah, from Jābir bin 'Abdullāh about the statement of Allāh, Most High: Allāh was pleased with the believers when they gave the pledge to you under the tree.[1] that Jābir said: "We pledged to the Messenger of Allāh ﷺ that we would not flee, and we did not pledge to him for death." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Salamah bin Al-Akwa', Ibn 'Umar, 'Ubādah, and Jarīr bin 'Abdullāh.

[Abū 'Eīsā said:] This *Ḥadīth* has been reported from 'Eīsā bin Yūnus, from Al-Awzā'ī, from Yaḥya bin Abī Kathīr who said: "Jābir bin 'Abdullāh said" and he did not mention Abū Salamah in it.

١٥٩١ - **حَدَّثَنَا** سَعِيدُ بْنُ يَحْيَى بْنِ سَعِيدٍ الْأُمَوِيُّ: حَدَّثَنَا عِيسَى بْنُ يُونُسَ عَنِ الْأَوْزَاعِيِّ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَمَةَ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ فِي قَوْلِهِ تَعَالَى: ﴿لَقَدْ رَضِيَ اللَّهُ عَنِ الْمُؤْمِنِينَ إِذْ يُبَايِعُونَكَ تَحْتَ الشَّجَرَةِ﴾ [الفتح:١٨]. قَالَ جَابِرٌ: بَايَعْنَا رَسُولَ اللهِ ﷺ عَلَى أَنْ لَا نَفِرَّ وَلَمْ نُبَايِعْهُ عَلَى الْمَوْتِ.

[قَالَ:] وفِي الْبَابِ عَنْ سَلَمَةَ بْنِ الْأَكْوَعِ، وَابْنِ عُمَرَ، وَعُبَادَةَ، وَجَرِيرِ بْنِ عَبْدِ اللهِ.

[قَالَ أَبُو عِيسَى:] وقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنْ عِيسَى بْنِ يُونُسَ، عَنِ الْأَوْزَاعِيِّ، عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، قَالَ: قَالَ جابِرُ بْنُ عَبْدِ اللهِ، وَلَمْ يُذْكَرْ فِيهِ أَبُو سَلَمَةَ.

تخريج: [إسناده صحيح] * وفي الباب عن سلمة ابن الأكوع [يأتي:١٥٩٢] وابن عمر [يأتي:١٥٩٣] وعبادة [البخاري، ح:٧١٩٩ ومسلم، ح:١٧٠٩] وجرير بن عبدالله [البخاري، ح:٥٧ ومسلم، ح:٢٥٦].

1592. Yazīd bin Abī 'Ubaid narrated: "I said to Salamah bin Al-Akwa': "For what did you pledge to the Messenger of Allāh ﷺ on the Day of Al-Ḥudaibiyyah?" He said: "For death." (***Ṣaḥīḥ***)

١٥٩٢ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا حَاتِمُ بْنُ إِسْمَاعِيلَ عَنْ يَزِيدَ بْنِ أَبِي عُبَيْدٍ قَالَ: قُلْتُ لِسَلَمَةَ بْنِ الْأَكْوَعِ: عَلَى أَيِّ شَيْءٍ بَايَعْتُمْ رَسُولَ اللهِ ﷺ يَوْمَ الْحُدَيْبِيَةِ؟ قَالَ: عَلَى الْمَوْتِ.

[1] *Al-Fatḥ* 48:18.

This *Hadīth* is *Hasan Sahīh*.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، المغازي، باب غزوة الحديبية ... إلخ، ح:٤١٦٩ ومسلم، ح:١٨٦٠ عن قتيبة به.

1593. Ibn 'Umar narrated: "We used to pledge to the Messenger of Allāh ﷺ to hear and obey," So he would say to us: "As much as you are able." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٥٩٣ - **حَدَّثَنَا** عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ قَالَ: كُنَّا نُبَايِعُ رَسُولَ اللهِ ﷺ عَلَى السَّمْعِ والطَّاعَةِ، فَيَقُولُ لَنَا: «فِيما اسْتَطَعْتُمْ».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الإمارة، باب البيعة على السمع والطاعة فيما استطاع، ح:١٨٦٧ عن علي بن حجر به.

Comments:

The *Sharī'ah* never orders or expects anything from a person which is beyond his power or beyond his endurance. The words of the Prophet ﷺ show his kindness, compassion and mercy for Muslims. (See also no. 1597.)

1594. Jābir bin 'Abdullāh narrated: "We did not pledge to the Messenger of Allāh ﷺ for death, but only that we would not flee." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*, meaning both of the *Ahādīth* are *Sahīh*. Some of his Companions pledged to him for death, they said only: "We will not leave from in front of you as long as we are not killed." While others pledged to him by saying: "We will not flee."

١٥٩٤ - **حَدَّثَنَا** أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: لَمْ نُبَايِعْ رَسُولَ اللهِ ﷺ عَلَى الْمَوْتِ إِنَّمَا بَايَعْنَاهُ عَلَى أَنْ لَا نَفِرَّ.

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، ومَعْنَى كِلَا الْحَدِيثَيْنِ صَحِيحٌ قَدْ بَايَعَهُ قَوْمٌ مِنْ أَصْحَابِهِ عَلَى الْمَوْتِ وإِنَّمَا قَالُوا: لَا نَزَالُ بَيْنَ يَدَيْكَ مَا لَمْ نُقْتَلْ، وبَايَعَهُ آخَرُونَ فَقَالُوا: لَا نَفِرُّ.

تخريج: وأخرجه مسلم، الإمارة، باب استحباب مبايعة الإمام الجيش عند إرادة القتال ... إلخ، ح:١٨٥٦/٦٨ من حديث سفيان بن عيينة به.

Comments:

This narration proves that the commander of the army can have an oath from troops that they will not flee from the battlefield, or that they will fight to the death if required, since those who do not flee may retreat and return. This pledge is totally different and has no links or likeness with the pledge of so-called spiritual guides.

Chapter 35. What Has Been Related About Violating A Pledge

(المعجم ٣٥) - بَابُ [مَا جَاءَ] فِي نَكْثِ الْبَيْعَةِ (التحفة ٣٥)

1595. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Three will not be spoken to by Allāh on the Day of Judgement, nor will they be purified, and for them is a painful torment: A man that gave a pledge to an *Imām*, and if he gives to him he fulfills it, and if he does not give to him he does not fulfill it" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This Hadīth is *Ḥasan Ṣaḥīḥ*.

١٥٩٥ - حَدَّثَنَا أَبُو عَمَّارٍ: حَدَّثَنَا وَكِيعٌ عَنِ الْأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «ثَلَاثَةٌ لَا يُكَلِّمُهُمُ اللهُ يَوْمَ الْقِيَامَةِ وَلَا يُزَكِّيهِمْ وَلَهُمْ عَذَابٌ أَلِيمٌ: رَجُلٌ بَايَعَ إِمَامًا فَإِنْ أَعْطَاهُ وَفَى لَهُ، وَإِنْ لَمْ يُعْطِهِ لَمْ يَفِ لَهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [وعَلَىٰ ذٰلِكَ الْأَمْرُ بِلَا اخْتِلَافٍ].

تخريج: متفق عليه، وأخرجه البخاري، الشهادات، باب اليمين بعد العصر، ح:٢٦٧٢ ومسلم، ح:١٠٨ من حديث سليمان الأعمش به.

Comments:

An honest person has the privilege that on the Day of Judgment Allāh will speak to him, and have mercy on him, his offences and faults will be pardoned. His unpardonable sins will be cleansed by Hellfire, and ultimately he will enter the Paradise.

Chapter 36. What Has Been Related About A Slave's Pledge

(المعجم ٣٦) - بَابُ مَا جَاءَ فِي بَيْعَةِ الْعَبْدِ (التحفة ٣٦)

1596. Jābir narrated: "A slave came to give the pledge to the Prophet ﷺ for *Hijrah*, but the Prophet ﷺ did not realize that he was a slave. So his master came, and the Prophet ﷺ said: 'Sell him to me.' So he purchased him for two black slaves. After this he ﷺ would not take the pledge from anyone until he asked him if he was a slave."[1] (***Ṣaḥīḥ***)

[He said:] There is something on this topic from Ibn 'Abbās.

١٥٩٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ [ابْنُ سَعْدٍ] عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ أَنَّهُ قَالَ: جَاءَ عَبْدٌ فَبَايَعَ رَسُولَ اللهِ ﷺ عَلَى الْهِجْرَةِ وَلَا يَشْعُرُ النَّبِيُّ ﷺ أَنَّهُ عَبْدٌ، فَجَاءَ سَيِّدُهُ، فَقَالَ النَّبِيُّ ﷺ: «بِعْنِيهِ» فَاشْتَرَاهُ بِعَبْدَيْنِ أَسْوَدَيْنِ وَلَمْ يُبَايِعْ أَحَدًا بَعْدُ حَتَّى يَسْأَلَهُ أَعَبْدٌ هُوَ.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ

[1] This Hadīth preceded, see no. 1239.

[Abū 'Eīsā said:] The *Hadīth* of Jābir is *Hasan Gharīb Sahīh*, we do not know of it except as a narration of Abū Az-Zubair.

حَسَنٌ غَرِيبٌ صَحِيحٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيث أَبِي الزُّبَيْرِ.

تخريج: وأخرجه مسلم، المساقاة، باب جواز بيع الحيوان بالحيوان، من جنسه، متفاضلاً، ح:١٦٠٢ عن قتيبة به * وفي الباب عن ابن عباس [لم أجده].

Comments:

The Prophet ﷺ had taken an oath of emigration from him, and there is no return on an oath of emigration, therefore, the Prophet ﷺ bought him in exchange for two black slaves. This narration proves that increase and decrease is possible in the barter of slaves. Another thing which appears from this narration is that the Prophet ﷺ had no knowledge of hidden things until Allāh revealed it to him.

Chapter 37. What Has Been Related About The Women's Pledge

(المعجم ٣٧) - **بَابُ مَا جَاءَ فِي بَيْعَةِ النِّسَاءِ** (التحفة ٣٧)

1597. Ibn Al-Munkadir heard Umaimah bint Ruqaiqah saying: "I pledged to the Messenger of Allāh ﷺ along with some women. He said to us: 'In as much as you are able and capable.' I said: 'Allāh and His Messenger are more merciful to us than we are to ourselves,' then I said: 'O Messenger of Allāh take the pledge from us.'" – Sufyān (one of the narrators) said: meaning: 'shake (hands) on it with us' – "so the Messenger of Allāh ﷺ said: 'My statement to one hundred women is like my statement to one.'" (*Sahīh*)

١٥٩٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ ابْنِ الْمُنْكَدِرِ سَمِعَ أُمَيْمَةَ بِنْتَ رُقَيْقَةَ تَقُولُ: بَايَعْتُ رَسُولَ اللهِ ﷺ فِي نِسْوَةٍ، فَقَالَ لَنَا: «فِيمَا اسْتَطَعْتُنَّ وَأَطَقْتُنَّ»، قُلْتُ: اللهُ وَرَسُولُهُ أَرْحَمُ بِنَا مِنَّا بِأَنْفُسِنَا، فَقُلْتُ: يَا رَسُولَ اللهِ بَايِعْنَا، قَالَ سُفْيَانُ: تَعْنِي صَافِحْنَا، فَقَالَ رَسُولُ اللهِ ﷺ: «إِنَّمَا قَوْلِي لِمِائَةِ امْرَأَةٍ كَقَوْلِي لِامْرَأَةٍ وَاحِدَةٍ».

[He said:] There are narrations on this topic from 'Āishah, from 'Abdullāh bin 'Umar, and Asmā' bint Yazīd.

[قَالَ:] وَفِي الْبَابِ عَنْ عَائِشَةَ، وَعَبْدِ اللهِ ابْنِ عُمَرَ، وَأَسْمَاءَ بِنْتِ يَزِيدَ.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*, we do not know of it except as a narration of Muhammad

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ مُحَمَّدِ بْنِ الْمُنْكَدِرِ.

وَرَوَى سُفْيَانُ الثَّوْرِيُّ، وَمَالِكُ بْنُ أَنَسٍ، وَغَيْرُ وَاحِدٍ هٰذَا الْحَدِيثَ عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ نَحْوَهُ. [قَالَ: وَسَأَلْتُ مُحَمَّدًا عَنْ

هٰذَا الْحَدِيثِ فَقَالَ: لَا أَعْرِفُ لِأُمَيْمَةَ بِنْتِ رُقَيْقَةَ غَيْرَ هٰذَا الْحَدِيثِ، وأُمَيْمَةُ امْرَأَةٌ أُخْرى لَها حَدِيثٌ عَنْ رَسُولِ اللهِ ﷺ].

bin Al-Munkadir.

Sufyān Ath-Thawrī, Mālik bin Anas, and others reported this *Hadīth* from Muḥammad bin Al-Munkadir similarly. [He said: I asked Muḥammad about this *Hadīth* and he said: "I am not aware of a *Hadīth* other than this for Umaimah bint Ruqaiqah." There is another woman named Umaimah who narrated from the Messenger of Allāh ﷺ].

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الجهاد، باب بيعة النساء، ح:٢٨٧٤ والنسائي:٧/ ١٤٩، ح:٤١٨٦ من حديث سفيان بن عيينة به وصححه ابن حبان، ح:١٤ * وفي الباب عن عائشة [البخاري، ح:٥٢٨٨ تعليقًا ومسلم، ح:١٨٦٦] وعبدالله بن عمرو [أحمد:٢/ ١٩٦] وأسماء بنت يزيد [يأتي:٣٣٠٧] * حديث مالك في الموطأ:٢/ ٩٨٢ (يحيى).

Comments:

The Prophet ﷺ used to hold the hand of men while taking the pledge from them, but from women, he always took a verbal pledge and never held their hand that is why he said that the words he uttered once will do for one woman or one hundred women at a time.

(المعجم ٣٨) - بَابُ مَا جَاءَ فِي عِدَّةِ أَصْحَابِ بَدْرٍ (التحفة ٣٨)

Chapter 38. What Has Been Related About The Number Of Companions Who Participated In The Battle Of Badr

١٥٩٨ - حَدَّثَنَا واصِلُ بْنُ عَبْدِ الأَعْلَى الْكُوفِيُّ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ أَبِي إِسْحَاقَ، عَنِ الْبَرَاءِ قَالَ: كُنَّا نَتَحَدَّثُ أَنَّ أَصْحَابَ بَدْرٍ يَوْمَ بَدْرٍ كَعِدَّةِ أَصْحَابِ طَالُوتَ ثَلَاثِمائَةٍ وثَلَاثَةَ عَشَرَ [رَجُلًا].

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رَوَاهُ الثَّوْرِيُّ وَغَيْرُهُ عَنْ أَبِي إِسْحَاقَ.

1598. Al-Barā'said: "We used to say that the participants at Badr on the Day of Badr were like the number of the companions of Ṭālūt, three hundred and thirteen [men]." (***Ṣaḥīḥ***)

[He said:] There is something on this topic from Ibn 'Abbās.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Ṣaḥīḥ*. Ath-Thawrī and others reported it from Abū Isḥāq.

تخريج: [صحيح] وأخرجه البخاري، المغازي، باب عدة أصحاب بدر، ح:٣٩٥٧_٣٩٥٩

من حديث أبي إسحاق السبيعي به * وفي الباب عن ابن عباس [أحمد: ١/٢٤٨].

Comments:

Companions of Tālūt means those honest and brave persons who crossed the canal and faced the enemy and stood by Tālūt. They were three hundred and thirteen, and those who participated in the battle of Badr were three hundred and thirteen. By some other counts they were three hundred and fourteen or three hundred and seventeen or three hundred and nineteen.

Chapter 39. What Has Been Related About The *Khumus*

(المعجم ٣٩) - بَابُ مَا جَاءَ فِي الْخُمُسِ (التحفة ٣٩)

1599. Ibn 'Abbās narrated that the Prophet ﷺ said to a delegation from 'Abdul-Qais: "I order you to give the *Khumus* from your spoils of war." (***Sahīh***)

He said: There is a story with this *Hadīth*.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

(Another chain) with similar narration.

١٥٩٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبَّادُ بْنُ عَبَّادٍ الْمُهَلَّبِيُّ عَنْ أَبِي جَمْرَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ لِوَفْدِ عَبْدِ الْقَيْسِ: «آمُرُكُم أَنْ تُؤَدُّوا خُمُسَ ما غَنِمْتُمْ» قَالَ: وفِي الحَدِيثِ قِصَّةٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَبِي جَمْرَةَ، عَنِ ابْنِ عَبَّاسٍ نَحْوَهُ.

تخريج: متفق عليه، أخرجه البخاري، مواقيت الصلاة، باب قول الله تعالي: ﴿منيبين إليه واتقوه وأقيموا الصلاة ولا تكونوا من المشركين﴾ ح": ٥٢٣ عن قتيبة ومسلم، ح: ١٧ من حديث عباد بن عباد به.

Comments:

In *Sūrat Al-Anfāl*, one-fifth of the spoils and its details are explained. The Prophet ﷺ ordered the tribe of Abdul-Qais to pay this share. (See for details *Sahīh Muslim*.)

Chapter 40. What Has Been Related About Looting Being Disliked

(المعجم ٤٠) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ النُّهْبَةِ (التحفة ٤٠)

1600. 'Abāyah bin Rifā'ah narrated from his father, from his grandfather Rāfi' bin Khadīj, who said: "We were with the Messenger of Allāh ﷺ on a journey, when the hasty people went rushing ahead to

١٦٠٠ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو الْأَحْوَصِ عَنْ سَعِيدِ بْنِ مَسْرُوقٍ، عَنْ عَبَايَةَ ابْنِ رِفَاعَةَ، عَنْ أَبِيهِ، عَنْ جَدِّهِ رَافِعِ بْنِ خَدِيجٍ قَالَ: كُنَّا مَعَ رَسُولِ اللهِ ﷺ فِي سَفَرٍ

فَتَقَدَّمَ سَرَعَانُ النَّاسِ فَتَعَجَّلُوا مِنَ الْغَنَائِمِ فَاطَّبَخُوا ورَسُولُ اللهِ ﷺ فِي أُخْرَى النَّاسِ، فَمَرَّ بِالْقُدُورِ فَأَمَرَ بِهَا فَأُكْفِئَتْ ثُمَّ قَسَمَ بَيْنَهُمْ فَعَدَلَ بَعِيرًا بِعَشْرِ شِيَاهٍ.

the sheep to cook them, while the Messenger of Allāh ﷺ was in the rear of the people. Then he passed the kettles and ordered that they be weighed, then he distributed it between them and equated a camel to ten sheep." (*Ṣaḥīḥ*)

[قَالَ أَبُو عِيسَى:] وَرَوَى سُفْيَانُ الثَّوْرِيُّ عَنْ أَبِيهِ، عَنْ عَبَايَةَ، عَنْ جَدِّهِ رَافِعِ بْنِ خَدِيجٍ، وَلَمْ يَذْكُرْ فِيهِ: عَنْ أَبِيهِ.

[Abū 'Eīsā said:] Sufyān Ath-Thawrī reported it from his father, from 'Abāyah, from his grandfather Rāfi' bin Khadīj, and he did not mention "from his father" in it.

حَدَّثَنَا بِذٰلِكَ مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا وَكِيعٌ عَنْ سُفْيَانَ وهٰذَا أَصَحُّ. وَعَبَايَةُ بْنُ رِفَاعَةَ سَمِعَ مِنْ جَدِّهِ رَافِعِ بْنِ خَدِيجٍ.

This was narrated to us by Maḥmūd bin Ghailān (who said): "Wakī' narrated it to us from Sufyān." And this is more correct. 'Abāyah bin Rifā'ah heard from his grandfather Rāfi' bin Khadīj.

قَالَ: وفِي الْبَاب عَنْ ثَعْلَبَةَ بْنِ الْحَكَمِ، وأَنَسٍ، وأَبِي رِيحانَةَ، وأَبِي الدَّرْدَاءِ، وعَبْدِالرَّحْمٰنِ بْنِ سَمُرَةَ، وزَيْدِ بْنِ خالِدٍ، وجَابِرٍ، وأَبِي هُرَيْرَةَ، وأَبِي أَيُّوبَ

He said: There are narrations on this topic from Tha'labah bin Al-Ḥakam, Anas, Abū Rīḥānah, Abū Ad-Dardā', 'Abdur-Raḥmān bin Samurah, Zaid bin Khālid, Jābir, Abū Hurairah, and Abū Ayyūb.

تخريج: متفق عليه، أخرجه البخاري، الذبائح والصيد، باب: إذا أصاب قوم غنيمةً فذبح بعضهم غنمًا أو إبلاً . . . إلخ، ح:٥٥٤٣ من حديث أبي الأحوص ومسلم، ح:١٩٦٨ من حديث سعيد بن مسروق به * وفي الباب عن ثعلبة بن الحكم [ابن ماجه، ح:٣٩٣٨] وأنس [يأتي:١٦٠١] وأبي ريحانة [أبو داود، ح:٤٠٤٩] وأبي الدرداء [أحمد:٥/ ١٩٥، ٦/ ٤٥٥] وعبدالرحمن بن سمرة [أبو داود، ح:٢٧٠٣] وزيد بن خالد [أحمد:٤/ ١١٧، ٥/ ١٩٣] وجابر [ابن ماجه، ح:٣٩٣٥] وأبي هريرة [البخاري، ح:٢٤٧٥ ومسلم، ح:٥٧] وأبي أيوب [الطبراني في الكبير:٤/ ١٢٤، ح:٣٨٧٢].

Comments:

Most people of knowledge agree that when the warriors enter the land of the enemy, they are allowed to take food and fodder from there according to their needs, however it should be rationed as indicated in this naration. (*Al-Mughnī* v. 13. p.176.)

١٦٠١ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنْ ثابِتٍ، عَنْ أَنَسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنِ انْتَهَبَ فَلَيْسَ مِنَّا».

1601. Anas narrated that the Messenger of Allāh ﷺ said: "Whoever plunders then he is not of us." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh Gharīb* as a *Hadīth* of Anas.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ أَنَسٍ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الجنائز، باب كراهية الذبح عند القبر، ح:٣٢٢٢ وابن ماجه، ح:١٨٨٥ والنسائي، ح:١٨٥٣ من حديث عبد الرزاق به مطولاً ومختصرًا، وهو في مصنف عبدالرزاق، ح:٦١٩٠ بطوله، وصححه ابن حبان، ح:٧٣٨.

Comments:

Plundering and looting the property of others is an open violation of Islamic Law and against the basic concept of brotherhood in Islam, therefore, according to the words used in this narration "He is not from us".

Chapter 41. What Has Been Related About Greeting The People Of The Book With *Salām*

(المعجم ٤١) - بَابُ مَا جَاءَ فِي التَّسْلِيمِ عَلَى أَهْلِ الْكِتَابِ (التحفة ٤١)

1602. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Do not precede the Jews and the Christians with the *Salām*. And if one of you meets one of them in the path, then force him to its narrow portion." (***Sahīh***)

١٦٠٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ ابْنُ مُحَمَّدٍ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا تَبْدَأُوا الْيَهُودَ وَالنَّصَارَى بِالسَّلَامِ، وَإِذَا لَقِيتُمْ أَحَدَهُمْ فِي الطَّرِيقِ فَاضْطَرُّوهُ إِلَى أَضْيَقِهِ».

[He said:] There are narrations on this topic from Ibn 'Umar, Anas, and Abū Basrah Al-Ghifārī the Companion of the Prophet ﷺ.

[قَالَ:] وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ، وَأَنَسٍ، وَأَبِي بَصْرَةَ الْغِفَارِيِّ صَاحِبِ النَّبِيِّ ﷺ.

[Abū 'Eīsā said:] This *Hadith* is *Hasan Sahīh*. And regarding the meaning of this *Hadīth*: "Do not precede the Jews and the Christians": Some of the people of knowledge said that it only means that it is disliked because it would be honoring them, and the Muslims were only ordered to humiliate them. For this reason, when one of them is met on the path, then the path is not yielded for him, because doing so would amount to honoring them.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَمَعْنَى هٰذَا الْحَدِيثِ: «لَا تَبْدَأُوا الْيَهُودَ وَالنَّصَارَى». قَالَ بَعْضُ أَهْلِ الْعِلْمِ إِنَّمَا مَعْنَى الْكَرَاهِيَةِ، لِأَنَّهُ يَكُونُ تَعْظِيمًا لَهُمْ، وَإِنَّمَا أُمِرَ الْمُسْلِمُونَ بِتَذْلِيلِهِمْ وَكَذٰلِكَ إِذَا لَقِيَ أَحَدُهُمْ فِي الطَّرِيقِ، فَلَا يَتْرُكُ الطَّرِيقَ عَلَيْهِ لِأَنَّ فِيهِ تَعْظِيمًا لَهُمْ.

تخريج: وأخرجه مسلم، السلام، باب النهي عن ابتداء أهل الكتاب بالسلام، وكيف يرد عليهم، ح:٢١٦٧ عن قتيبة به * وفي الباب عن ابن عمر [يأتي:١٦٠٣] وأنس [يأتي:٣٣١٠] وأبي بصرة الغفاري [أحمد:٦/٣٩٨ والبخاري في الأدب المفرد، ح:١١٠٢ والنسائي في عمل اليوم والليلة، ح:٣٨٨].

Comments:

In normal conditions when Muslims are in power and they are not living as a minority, and they are not under any compulsion or subjugation, it is an order for Muslims that they should not give such leeway to the non-Muslims and they should not greet them first nor yield the way for them. Some of the people of knowledge said that it only means that it is disliked because it would amount to honoring them, and the Muslims were only to humiliate them. For this reason, when one of them is met on the path a Muslim is not to yield for him because doing so would amount to honoring them. In a country where Muslims are living as a minority, they are allowed to give give such leeway to non-Muslim rulers for the greater interest of the Muslim community. (*Tuhfat Al-Ahwadhī* v.2. p.397.)

1603. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Indeed when a Jew gives *Salām* to one of you, then he is only saying: '*As-Sāmu 'Alaikum* (Death be upon you) so say: "*Alaik* (And upon you)'." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٦٠٣ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ الْيَهُودَ إِذَا سَلَّمَ عَلَيْكُمْ أَحَدُهُمْ فَإِنَّمَا يَقُولُ: السَّامُ عَلَيْكُم، فَقُلْ: عَلَيْكَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، أيضًا، ح:٢١٦٤ عن علي بن حجر والبخاري، ح:٦٩٢٨ من حديث عبدالله بن دينار به.

Chapter 42. What Has Been Related About It Being Disliked To Live Among The Idolaters

(المعجم ٤٢) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْمُقَامِ بَيْنَ أَظْهُرِ الْمُشْرِكِينَ (التحفة ٤٢)

1604. Qais bin Abī Hāzim narrated from Jarīr bin 'Abdullāh that the Messenger of Allāh ﷺ sent a military expedition to Khath'am. So some people (living there) sought safety by prostrating, but they were met quickly and killed. News of this reached the

١٦٠٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ، عَنْ جَرِيرِ بْنِ عَبْدِ اللهِ: أَنَّ رَسُولَ اللهِ ﷺ بَعَثَ سَرِيَّةً إِلَى خَثْعَمَ، فَاعْتَصَمَ نَاسٌ بِالسُّجُودِ فَأَسْرَعَ فِيهِمُ الْقَتْلَ فَبَلَغَ ذٰلِكَ النَّبِيَّ

ﷺ فَأَمَرَ لَهُمْ بِنِصْفِ الْعَقْلِ وقَالَ: «أَنَا بَرِيءٌ مِنْ كُلِّ مُسْلِمٍ يُقِيمُ بَيْنَ أَظْهُرِ الْمُشْرِكِينَ»، قَالُوا: يَا رَسُولَ اللهِ، وَلِمَ؟ قَالَ: «لَا تَرَاءَى نَارَاهُمَا».

Prophet ﷺ upon which he commanded that they be given half of the *'Aql* (blood money). And he said: "I am free from every Muslim that lives among the idolaters." They said: "O Messenger of Allāh: How is that?" He said: "They should not see each other's campfires." ***(Ḍa'īf)***

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الجهاد، باب النهي عن قتل من اعتصم بالسجود، ح: ٢٦٤٥ عن هناد به، أبو معاوية الضرير وإسماعيل بن أبي خالد مدلسان وعنعنا.

Comments:

Emigrating and residing in a non-Muslim country for the sake of better livelihood is an extremely shameful action, but going there for the purpose of preaching, safeguarding Islamic interests and acquiring knowledge is admirable and appreciated, provided one may manifest his religion without fear.

١٦٠٥ - **حَدَّثَنَا** هَنَّادٌ: حَدَّثَنَا عَبْدَةُ عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ مِثْلَ حَدِيثِ أَبِي مُعَاوِيَةَ، وَلَمْ يَذْكُرْ فِيهِ: عَنْ جَرِيرٍ. وهٰذَا أَصَحُّ.

وفِي الْبَابِ عَنْ سَمُرَةَ.

[**قَالَ أَبُو عِيسَى**:] وأَكْثَرُ أَصْحَابِ إِسْمَاعِيلَ قَالُوا عَنْ إِسْمَاعِيلَ عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ: أَنَّ رَسُولَ اللهِ ﷺ بَعَثَ سَرِيَّةً ولَمْ يَذْكُرُوا فِيهِ عَنْ جَرِيرٍ.

ورَوَى حَمَّادُ بْنُ سَلَمَةَ عَنِ الْحَجَّاجِ بْنِ أَرْطَاةَ، عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، عَنْ قَيْسٍ، عَنْ جَرِيرٍ مِثْلَ حَدِيثِ أَبِي مُعَاوِيَةَ.

[قَالَ:] وَسَمِعْتُ مُحَمَّدًا يَقُولُ: الصَّحِيحُ حَدِيثُ قَيْسٍ عَنِ النَّبِيِّ ﷺ مُرْسَلٌ.

ورَوَى سَمُرَةُ بْنُ جُنْدَبٍ عَنِ النَّبِيِّ ﷺ

1605. Qais bin Abī Ḥāzim narrated similar to the narration of Abū Mu'āwiyah (no. 1604) but he did not mention in it: "from Jarīr" in it, and that is more correct. ***(Ḍa'īf)***

There is something on this topic from Samurah.

[Abū 'Eīsā said:] Most of the companions of Ismā'īl said: "From Ismā'īl, from Qais bin Abī Ḥāzim, that the Messenger of Allāh ﷺ sent a military expedition." And they did not mention: "from Jarīr" in it.

Ḥammād bin Salamah reported similar to the narration of Abū Mu'āwiyah, from Al-Ḥajjāj bin Arṭāh, from Ismā'īl bin Abī Khālid, from Qais, from Jarīr.

[He said:] I heard Muḥammad saying: "What is correct is the narration of Qais from the Prophet

ﷺ in *Mursal* form."

قَالَ: «لَا تُسَاكِنُوا الْمُشْرِكِينَ ولَا تُجَامِعُوهُمْ، فَمَنْ سَاكَنَهُمْ أَوْ جَامَعَهُمْ فَهُوَ مِثْلُهُمْ».

Samurah bin Jundab reported that the Prophet ﷺ said: "Do not live among the idolaters, and do not assemble with them, for whoever lives among them or assembles with them then he is similar to them." (*Ḍaʿīf*)

تخريج: **[إسناده ضعيف]** مرسل وانظر الحديث السابق * وفي الباب عن سمرة [أبو داود، ح: ٢٧٨٧] وسنده ضعيف.

(المعجم ٤٣) - بَابُ مَا جَاءَ فِي إِخْرَاجِ الْيَهُودِ وَالنَّصَارَى مِنْ جَزِيرَةِ الْعَرَبِ

(التحفة ٤٣)

Chapter 43. What Has Been Related About Expelling The Jews And The Christians From The Arabian Peninsula

١٦٠٦ - حَدَّثَنَا مُوسَى بْنُ عَبْدِ الرَّحْمٰنِ الكِنْدِيُّ: حَدَّثَنَا زَيْدُ بْنُ الْحُبَابِ: حَدَّثَنَا سُفْيَانُ الثَّوْرِيُّ عَنْ أَبِي الزُّبَيْرِ، عَنْ جابِرٍ، عَنْ عُمَرَ بْنِ الْخَطَّابِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَئِنْ عِشْتُ إِنْ شَاءَ اللهُ لَأُخْرِجَنَّ الْيَهُودَ والنَّصَارَى مِنْ جَزِيرَةِ الْعَرَبِ».

1606. ʿUmar bin Al-Khaṭṭāb narrated that the Messenger of Allāh ﷺ said: "If I live – if Allāh wills – I will expel the Jews and the Christians from the Arabian Peninsula." (***Ṣaḥīḥ***)

تخريج: وأخرجه مسلم، ح: ١٧٦٧/ ٦٣ب من حديث سفيان الثوري به انظر الحديث الآتي.

١٦٠٧ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا أَبُو عَاصِمٍ وعَبْدُ الرَّزَّاقِ قَالَا: حَدَّثَنَا ابْنُ جُرَيْجٍ: حَدَّثَنَا أَبُو الزُّبَيْرِ أَنَّهُ سَمِعَ جَابِرَ ابْنَ عَبْدِ اللهِ يَقُولُ: أَخْبَرَنِي عُمَرُ بْنُ الْخَطَّابِ أَنَّهُ سَمِعَ رَسُولَ اللهِ ﷺ يَقُولُ: «لَأُخْرِجَنَّ الْيَهُودَ والنَّصَارَى مِنْ جَزِيرَةِ الْعَرَبِ فَلَا أَتْرُكُ فِيهَا إِلَّا مُسْلِمًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

1607. Jābir bin ʿAbdullāh narrated: "Umar bin Al-Khaṭṭāb informed me that he heard the Messenger of Allāh ﷺ say: 'I will expel the Jews and the Christians from the Arabian Peninsula, and I will not leave anyone in it except a Muslim.'" (*Ṣaḥīḥ*)

[Abū ʿEīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: وأخرجه مسلم، الجهاد والسير، باب إخراج اليهود والنصارى من جزيرة العرب، ح: ١٧٦٧ من حديث عبدالرزاق به.

Comments:

The Prophet ﷺ wanted to expel the Jews and Christians, who claim to be the People of the Book, from the Arabian Peninsula. Non-Muslims are only allowed to live in the Arabian Peninsula temporarily as a traveler or for some other important needs of the Society as determined by the leaders. (See for details *Tuhfat Al-Ahwadhī* v. 2. p. 498.)

Chapter 44. What Has Been Related About What The Messenger Of Allāh ﷺ Left Behind

(المعجم ٤٤) - **بَابُ مَا جَاءَ فِي تَرِكَةِ رَسُولِ اللهِ ﷺ** (التحفة ٤٤)

1608. Abū Hurairah narrated: "Fāṭimah came to Abū Bakr and said: 'Who will inherit from you?' He said: 'My family and my son.' She said: 'So what about me? I do not get inheritance from my father?' So Abū Bakr said: 'I heard the Messenger of Allāh ﷺ say: 'We are not inherited from' but I support those whom the Messenger of Allāh ﷺ used to support, and I spend upon those whom the Messenger of Allāh ﷺ spent upon." (***Hasan***)

١٦٠٨ - **حَدَّثَنَا** مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا أَبُو الْوَلِيدِ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ مُحَمَّدِ ابْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: جَاءَتْ فَاطِمَةُ إِلَى أَبِي بَكْرٍ فَقَالَتْ: مَنْ يَرِثُكَ؟ قَالَ: أَهْلِي وَوَلَدِي، قَالَتْ: فَمَا لِي لَا أَرِثُ أَبِي؟! فَقَالَ أَبُو بَكْرٍ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «لَا نُورَثُ». وَلَكِنْ أَعُولُ مَنْ كَانَ رَسُولُ اللهِ ﷺ يَعُولُهُ وَأُنْفِقُ عَلَى مَنْ كَانَ رَسُولُ اللهِ ﷺ يُنْفِقُ عَلَيْهِ.

[Abū 'Eīsā said:] There are narrations on this topic from 'Umar, Ṭalḥah, Az-Zubair, 'Abdur-Raḥmān bin 'Awf, Sa'd and 'Āishah.

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنْ عُمَرَ، وَطَلْحَةَ، وَالزُّبَيْرِ، وَعَبْدِ الرَّحْمٰنِ بْنِ عَوْفٍ، وَسَعْدٍ، وَعَائِشَةَ.

The *Hadīth* of Abū Hurairah is *Hasan Gharīb* from this route. It is only reported with a chain by Ḥammād bin Salamah and 'Abdul-Wahhāb bin 'Aṭā', from Muḥammad bin 'Amr, from Abū Salamah, from Abū Hurairah.

وَحَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ، إِنَّمَا أَسْنَدَهُ حَمَّادُ بْنُ سَلَمَةَ وَعَبْدُ الْوَهَّابِ بْنُ عَطَاءٍ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ

[I asked Muḥammad about this *Hadīth* and he said: "No one is known to have reported it from Muḥammad bin 'Amr, from Abū

[وَسَأَلْتُ مُحَمَّدًا عَنْ هٰذَا الْحَدِيثِ فَقَالَ: لَا أَعْلَمُ أَحَدًا رَوَاهُ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ إِلَّا حَمَّادَ بْنَ

Salamah, from Abū Hurairah, except for Ḥammād bin Salamah. 'Abdul-Wahhāb bin 'Aṭā' reported it from Muḥammad bin 'Amr, from Abū Salamah, and from Abū Hurairah and it is similar to the narration of Ḥammād bin Salamah.] And this *Ḥadīth* has been reported through other routes from Abū Bakr Aṣ-Ṣiddīq, from the Prophet ﷺ.

سَلَمَةَ. ورَوَى عَبْدُالْوَهَّابِ بْنُ عَطَاءٍ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ وعَنْ أَبِي هُرَيْرَةَ نَحْوَ رِوَايَةِ حَمَّادِ بْنِ سَلَمَةَ] وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي بَكْرٍ الصِّدِّيقِ عَنِ النَّبِيِّ ﷺ.

تخريج: [**إسناده حسن**] وأخرجه أحمد: ١/ ١٣ من حديث محمد بن عمرو به وهذا الحديث متواتر ورواه الروافض أيضًا، انظر أصول الكافي: ١/ ٣٢، ٣٣ * وفي الباب عن عمر [يأتي: ١٦٠٩] وطلحة [النسائي في الكبرى: ٤/ ٦٤، ح: ٦٣٠٧] والزبير [يأتي: ١٦١٠] وعبد الرحمن بن عوف [يأتي: ١٦١٠] وسعد [يأتي: ١٦١٠] وعائشة [الترمذي في الشمائل، ح: ٤٠١، ٤٠٢].

1609. Abū Hurairah narrated that Fāṭimah came to Abū Bakr and 'Umar, may Allāh be pleased with them both, to ask them about her inheritance from the Messenger of Allāh ﷺ. They said: "We heard the Messenger of Allāh ﷺ say: 'I am not inherited from.'" So she said: 'By Allāh! I will never talk to you two again.' So she died having not talked to them." (***Hasan***)

'Alī bin 'Eīsā said: "The meaning of not speaking to you two is: 'Never again regarding this inheritance, because you two are truthful.'"

١٦٠٩ - [حَدَّثَنَا بِذٰلِكَ عَلِيُّ بْنُ عِيسَى قَالَ: حَدَّثَنَا عَبْدُ الْوَهَّابِ بْنُ عَطَاءٍ: حَدَّثَنَا مُحَمَّدُ بْنُ عَمْرٍو عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ فَاطِمَةَ جَاءَتْ أَبَا بَكْرٍ وعُمَرَ رَضِيَ اللهُ عَنْهُمَا تَسْأَلُ مِيرَاثَهَا مِنْ رَسُولِ اللهِ ﷺ فَقَالَا: سَمِعْنَا رَسُولَ اللهِ ﷺ يَقُولُ: «إِنِّي لَا أُورَثُ» قَالَتْ: واللهِ لَا أُكَلِّمُكُمَا أَبدًا، فَمَاتَتْ ولَا تُكَلِّمُهُمَا، قَالَ عَلِيُّ بْنُ عِيسَى: مَعْنَى لَا أُكَلِّمُكُمَا، تَعْنِي: فِي هٰذَا الْمِيرَاثِ أَبَدًا، أَنْتُمَا صَادِقَانِ].

تخريج: [**إسناده حسن**] وأخرجه أحمد: ١/ ١٣ عن عبدالوهاب بن عطاء به.

Comments:

The Prophet ﷺ is the spiritual father of a nation, his legacy is not wealth or property, his inheritance is knowledge which he receives through revelation. His (*Ummah*) nation is heir of his mission and knowledge. Prophets do not have any desire for wealth and property, they want acquittal from worldly affairs, and therefore, they do not collect wealth and do not have any heirs.

1610. Mālik bin Aws bin Al-Hadathān said: "I entered upon 'Umar bin Al-Khaṭṭāb. (Then) 'Uthmān bin 'Affān, Az-Zubair, 'Abdur-Raḥmān bin Awf, and Sa'd bin Abī Waqqāṣ entered. Then 'Alī and Al-'Abbās came disputing. 'Umar said to them: 'I ask you, by Allāh the One by Whose Will the heavens and the earth are maintained, do you know that the Messenger of Allāh ﷺ said: "We are not inherited from, what we leave is charity?" They said: 'Yes.' 'Umar said: 'When the Messenger of Allāh ﷺ died, Abū Bakr said: "I am the caretaker of the Messenger of Allāh ﷺ." So you and he went to Abū Bakr and you sought your inheritance from the son of your brother, and he sought the inheritance of his wife from her father. So Abū Bakr said that the Messenger of Allāh ﷺ said: "We are not inherited from, what we leave is charity." And Allāh knows that he is truthful, innocent, instructing and following the truth.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is a lengthy story along with the *Ḥadīth*. And this *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* as a narration of Mālik bin Anas.

١٦١٠ - **حَدَّثَنَا** الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا بِشْرُ بْنُ عُمَرَ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنِ ابْنِ شِهَابٍ، عَنْ مالِكِ بْنِ أَوْسِ بْنِ الْحَدَثَانِ قَالَ: دَخَلْتُ عَلَى عُمَرَ بْنِ الْخَطَّابِ ودَخَلَ عَلَيْهِ عُثْمَانُ بْنُ عَفَّانَ والزُّبَيْرُ بْنُ العَوَّامِ وعَبْدُ الرَّحْمٰنِ بْنُ عَوْفٍ وسَعْدُ بْنُ أَبِي وقَّاصٍ، ثُمَّ جاءَ عَلِيٌّ والعَبَّاسُ يَخْتَصِمَانِ، فَقَالَ عُمَرُ لَهُمْ: أَنْشُدُكُمْ باللهِ الَّذي بِإِذْنِهِ تَقُومُ السَّمَاءُ والأَرْضُ أَتَعْلَمُونَ أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا نُورَثُ، مَا تَرَكْنَا صَدَقَةٌ»؟ قَالُوا: نَعَمْ، قَالَ عُمَرُ: فَلَمَّا تُوُفِّيَ رَسُولُ اللهِ ﷺ قَالَ أَبُو بَكْرٍ: أَنَا وَلِيُّ رَسُولِ اللهِ ﷺ فَجِئْتَ أَنْتَ وَهٰذَا إِلى أَبِي بَكْرٍ تَطْلُبُ أَنْتَ مِيرَاثَكَ مِنِ ابْنِ أَخِيكَ ويَطْلُبُ هٰذَا مِيرَاثَ امْرَأَتِهِ مِنْ أَبِيهَا. فَقَالَ أَبُو بَكْرٍ إِنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا نُورَثُ مَا تَرَكْنَاهُ صَدَقَةٌ» وَاللهُ يَعْلَمُ أَنَّهُ صَادِقٌ بَارٌّ رَاشِدٌ تَابِعٌ لِلْحَقِّ.

[قَالَ أَبُو عِيسَى:] وفِي الْحَدِيثِ قِصَّةٌ طَوِيلَةٌ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ مالِكِ بْنِ أَنَسٍ.

تخريج: متفق عليه، أخرجه البخاري، فرض الخمس، باب فرض الخمس، ح:٣٠٩٤ ومسلم، ح:١٧٥٧/٤٩ من حديث مالك به.

Comments:

There is a long story that has been discussed in this narration; for details see *Fawa'id Ṣaḥīḥ Muslim*. 'Abbās and 'Alī brought this issue before 'Umar for the second time, to know his point of view about this narration, as for the first time it was presented before Abū Bakr.

Chapter 45. What Has Been Related About What The Prophet ﷺ Said On The Day Of The Conquest: Verily This Is Not To Be Battled Over After Today

(المعجم ٤٥) - بَابُ مَا جَاءَ [مَا] قَالَ النَّبِيُّ ﷺ يَوْمَ فَتْحِ مَكَّةَ: إِنَّ هَذِهِ لَا تُغْزَى بَعْدَ الْيَوْمِ (التحفة ٤٥)

1611. Al-Ḥārith bin Mālik bin Al-Barṣā' narrated: "On the day of the Conquest of Makkah, I heard the Prophet ﷺ saying: 'This is not to be battled over after today, until the Day of Judgement.'" (***Ḥasan***)

[Abū 'Eīsā said:] There are narrations on this topic from Ibn 'Abbās, Sulaimān bin Ṣurad, and Muṭī'.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, and it is a narration of Zakariyyā bin Abī Zā'idah from Ash-Sha'bī, we do not know of it except from his narration.

١٦١١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا زَكَرِيَّا بْنُ أَبِي زَائِدَةَ عَنِ الشَّعْبِيِّ، عَنِ الْحَارِثِ بْنِ مالِكِ بْنِ الْبَرْصَاءِ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَوْمَ فَتْحِ مَكَّةَ يَقُولُ: «لَا تُغْزَى هَذِهِ بَعْدَ الْيَوْمِ إِلَى يَوْمِ الْقِيَامَةِ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وسُلَيْمَانَ بْنِ صُرَدٍ ومُطِيعٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ وهُوَ حَدِيثُ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ عَنِ الشَّعْبِيِّ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِهِ.

تخريج: [حسن] وأخرجه أحمد: ٣/ ٤١٢ عن يحيى بن سعيد القطان به وله شاهد عند أحمد: ٣/ ٤١٢، ٤/ ٢١٣ وسنده حسن * وفي الباب عن ابن عباس [البخاري، ح: ١٣٤٩ ومسلم، ح: ١٣٥٣] وسليمان بن صرد [العلة يشير إلى ح: ٤١٠٩، ٤١١٠ من حديث البخاري] ومطيع [مسلم، ح: ١٧٨٢].

Comments:

Respect and honor of Makkah is due to the House of Allāh. It was freed from the occupation of infidels to restore its respect and honor. The disbelievers had made it an idol temple. Now Makkah, after its conquest, is a free place, respected and honored by Muslims of the world, therefore, making it a battlefield is unlawful. If some non-Muslim army or group of people attack the city, then Muslims are allowed to fight to save its honor.

Chapter 46. What Has Been Related About The Hour In Which It Is Recommend To Fight

(المعجم ٤٦) - بَابُ مَا جَاءَ فِي السَّاعَةِ الَّتِي يُسْتَحَبُّ فِيهَا الْقِتَالُ (التحفة ٤٦)

1612. An-Nu'mān bin Muqarrin narrated: "I fought along with the Prophet ﷺ, and if *Fajr* had begun he would wait until the sun rose, and when it rose he would fight.

١٦١٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ قَالَ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنِ النُّعْمَانِ بْنِ مُقَرِّنٍ قَالَ: غَزَوْتُ مَعَ النَّبِيِّ

ﷺ فكانَ إذا طَلَعَ الفَجْرُ أَمْسَكَ حَتَّى تَطْلُعَ الشَّمْسُ فَإِذا طَلَعَتْ قَاتَلَ، فَإِذا انْتَصَفَ النَّهارُ أَمْسَكَ حَتَّى تَزُولَ الشَّمْسُ، فَإِذَا زَالَتِ الشَّمْسُ قَاتَلَ حَتَّى العَصْرِ ثُمَّ أَمْسَكَ حَتَّى يُصَلِّيَ العَصْرَ ثُمَّ يُقَاتِلُ، قَالَ: وكانَ يُقَالُ: عِنْدَ ذٰلِكَ تَهِيجُ رِيَاحُ النَّصْرِ وَيَدْعُو الْمُؤْمِنُونَ لِجُيُوشِهِمْ في صَلَاتِهِمْ.

[قَالَ أَبُو عِيسَى:] وقَدْ رُوِيَ هٰذَا الحَدِيثُ عَنِ النُّعْمَانِ بْنِ مُقَرِّنٍ بِإِسْنَادٍ أَوْصَلَ مِنْ هٰذَا، وقَتَادَةُ لَمْ يُدْرِكِ النُّعْمَانَ بْنَ مُقَرِّنٍ، مَاتَ النُّعْمَانُ في خِلَافَةِ عُمَرَ.

And if it was the middle of the daytime, he would wait until the sun passed the zenith, and when it passed the zenith he would fight until *'Aṣr*. Then he would wait until he had prayed *'Aṣr*, then he would fight." He said: "And it used to be said during that (time)[1] that the wind of victory was raging, and the believers would supplicate for their armies in their *Ṣalāt*." ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* has been reported from An-Nu'mān bin Muqarrin through a chain that is more connected than this. Qatādah did not see An-Nu'mān bin Muqarrin. An-Nu'mān died during the *Khilāfah* of 'Umar.

تخريج: **[إسناده ضعيف]** قتادة عنعن والحديث الآتي يغني عنه.

Comments:

The Prophet ﷺ used to start a battle after the Morning Prayer. Prayers and invocations are means for help, guidance and success. Winds of success blow as a result of prayer and invocations.

١٦١٣ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَفَّانُ بْنُ مُسْلِمٍ والْحَجَّاجُ بْنُ مِنْهَالٍ قَالَا: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ: حَدَّثَنَا أَبُو عِمْرَانَ الْجَوْنِيُّ عَنْ عَلْقَمَةَ بْنِ عَبْدِ اللهِ الْمُزَنِيِّ، عَنْ مَعْقِلِ بْنِ يَسَارٍ: أَنَّ عُمَرَ بْنَ الخَطَّابِ بَعَثَ النُّعْمَانَ بْنَ مُقَرِّنٍ إِلَى الهُرْمُزَانِ، فَذَكَرَ الْحَدِيثَ بِطُولِهِ، فَقَالَ النُّعْمَانُ بْنُ مُقَرِّنٍ: شَهِدْتُ مَعَ رَسُولِ اللهِ ﷺ فَكَانَ إِذا لَمْ يُقَاتِلْ أَوَّلَ النَّهارِ انْتَظَرَ حَتَّى تَزُولَ الشَّمْسُ وتَهُبَّ الرِّيَاحُ ويَنْزِلَ النَّصْرُ.

1613. Ma'qil bin Yasār narrated: "Umar bin Al-Khaṭṭāb sent An-Nu'mān bin Muqarrin to Al-Hurmuzān." And he mentioned the *Ḥadīth* in its entirety. An-Nu'mān bin Muqarrin said: "I participated (in battles) with the Messenger of Allāh ﷺ. So when he did not fight in the beginning of the daytime, he would wait until the sun passed the zenith, and the wind of victory would rage, and victory would descend upon them." ***(Ṣaḥīḥ)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. 'Alqamah bin

[1] That is during the time after the zenith as indicated in the following *Ḥadīth*.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وعَلْقَمَةُ بْنُ عَبْدِ اللهِ هُوَ أَخُو بَكْرِ بْنِ عَبْدِ اللهِ الْمُزَنِيِّ.

'Abdullāh (one of the narrators) is the brother of Bakr bin 'Abdullāh Al-Muzanī.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الجهاد، باب: في أي وقت يستحب اللقاء، ح:٢٦٥٥ من حديث حماد بن سلمة به وصححه ابن حبان (الإحسان):٤٧٣٧ والحاكم على شرط مسلم:٢/١١٦ ووافقه الذهبي، وأصله عند البخاري، ح:٣١٦٠ من حديث النعمان به.

(المعجم ٤٧) - بَابُ مَا جَاءَ فِي الطِّيَرَةِ (التحفة ٤٧)

Chapter 47. What Has Been Related About *Aṭ-Ṭiyarah* (Bad Omens)

١٦١٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ، عَنْ عِيسَى بْنِ عَاصِمٍ، عَنْ زِرٍّ، عَنْ عَبْدِ اللهِ [بْنِ مَسْعُودٍ] قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الطِّيَرَةُ مِنَ الشِّرْكِ، وَمَامِنَّا [إِلَّا] ولَكِنَّ اللهَ يُذْهِبُهُ بِالتَّوَكُّلِ».

قَالَ أَبُو عِيسَى: سَمِعْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ يَقُولُ: كانَ سُلَيْمَانُ بْنُ حَرْبٍ يَقُولُ فِي هٰذَا الْحَدِيثِ: «وَمَامِنَّا وَلَكِنَّ اللهَ يُذْهِبُهُ بِالتَّوَكُّلِ».

قَالَ سُلَيمَانُ: هٰذَا عِنْدِي قَوْلُ عَبْدِ اللهِ بْنِ مَسْعُودٍ، وفي الْبَابِ عَنْ سَعْدٍ، وأَبِي هُرَيْرَةَ، وحابِسٍ التَّمِيمِيِّ، وعائِشَةَ، وابْنِ عُمَرَ، [و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ سَلَمَةَ بْنِ كُهَيْلٍ وَرَوَى شُعْبَةُ أَيْضًا عَنْ سَلَمَةَ، هٰذَا الْحَدِيثَ.

1614. 'Abdullāh [bin Mas'ūd] narrated that the Messenger of Allāh ﷺ said: "*Aṭ-Ṭiyarah* is from *Shirk*, and none among us (it influences) except that Allāh will remove it with *Tawakkul* (reliance)." **(*Ṣaḥīḥ*)**

Abū 'Eīsā said: I heard Muḥammad bin Ismā'īl saying: "Sulaimān bin Ḥarb used to say about this *Ḥadīth*: 'And none among us (it influences) except that Allāh will remove it with *Tawakkul* (reliance)' – Sulaimān would say: 'To me, this is a saying of 'Abdullāh bin Mas'ūd.'"

There are narrations on this topic from Sa'd, Abū Hurairah, Ḥābis At-Tamīmī, 'Āishah, and Ibn 'Umar.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, we do not know of it except as a narration of Salamah bin Kuhail. Shu'bah also reported this *Ḥadīth* from Salamah.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الطب، باب: في الطيرة، ح:٣٩١٠ وابن ماجه، ح:٣٥٣٨ من حديث سفيان الثوري به وتابعه شعبة عند الطيالسي، ح:٣٥٦ وصححه ابن حبان، ح:١٤٢٧ والحاكم:١/١٨ وغيرهما * وفي الباب عن سعد [أبو داود، ح:٣٩٢١] وأبي هريرة [البخاري، ح:٥٧٥٤ ومسلم، ح:٢٢٢٣] وحابس التميمي [البخاري في الأدب المفرد،

ح:٩١٤] وعائشة [البخاري في الأدب المفرد، ح:٩١٢ وأحمد:٦/ ١٢٩، ١٥٠، ٢٤٠] ابن عمر [البخاري، ح:٥٧٥٣ ومسلم، ح:٢٢٢٥].

Comments:

In the period of *Jahiliyyah*, Arabs, at the time of leaving home for some purpose, took the flight of birds from left to right or right to left as a bad omen. They believed that the flight of the birds will have have bad effects and the accomplishment of their pursuits will be influenced. This kind of thinking is a type of *Shirk* because no one has the power except Allāh to change a thing from good to bad or otherwise.

1615. Anas narrated that the Messenger of Allāh ﷺ said: "There is no *'Adwa* and no *Ṭiyarah*, and I like *Fa'l*." They said: "O Messenger of Allāh! What is *Fa'l*?" He said: "A good statement." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦١٥ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ هِشَامٍ [الدَّسْتَوَائِيِّ]، عَنْ قَتَادَةَ، عَنْ أَنَسٍ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا عَدْوَى وَلَا طِيَرَةَ وَأُحِبُّ الفَأْلَ»، قَالُوا: يَا رَسُولَ اللهِ، وَمَا الفَأْلُ؟ قَالَ: «الكَلِمَةُ الطَّيِّبَةُ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الطب، باب الفأل، ح:٥٧٥٦ من حديث هشام ومسلم، ح:٢٢٢٤ من حديث قتادة به.

Comments:

'Adwa: Tranference of disease from the affected person to others. This narration makes it clear that disease does not pass on to another person by itself, but goes to another person by the Will of Allāh. As the first person gets some disease with the will of Allāh, the same way the second and third, and so-on get this disease by the Will of Allāh. A person, who gets sick and thinks that he got this disease from another person shows lack of trust in Allāh, he is advised instead to visit the patients and safeguard his faith and trust in Allāh. See *Tuḥfat Al-Aḥwadhī*.

1616. Anas bin Mālik narrated that the Prophet ﷺ used to like it when he set out upon an affair if he heard: "O directed one, O successful one." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*.

١٦١٦ - **حَدَّثَنَا** مُحَمَّدُ بْنُ رَافِعٍ: حَدَّثَنَا أَبُو عَامِرٍ العَقَدِيُّ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ حُمَيْدٍ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ النَّبِيَّ ﷺ كَانَ يُعْجِبُهُ إِذَا خَرَجَ لِحَاجَتِهِ أَنْ يَسْمَعَ يَا رَاشِدُ، يَا نَجِيحُ.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

تخريج: [**إسناده ضعيف**] وأخرجه الطحاوي في مشكل الآثار: ٢/ ٣٤٤ وأبو نعيم في أخبار أصبهان: ٢/ ٢٠٦ من حديث محمد بن رافع النيسابوري به * حميد الطويل مدلس وعنعن.

Comments:

One should always be optimistic and hopeful of good results in this world and in the Hereafter. One should see the bright side of things and discard the dark side. The Prophet ﷺ always liked to have a good and happy kind of encouragement on hearing a good remark. There is no reality in a bad omen, and it is considered a kind of *Shirk*.

Chapter 48. What Has Been Related About The Exhortation Of The Prophet ﷺ Regarding Fighting

(المعجم ٤٨) - بَابُ مَا جَاءَ فِي وَصِيَّةِ النَّبِيِّ ﷺ فِي الْقِتَالِ (التحفة ٤٨)

1617. Sulaimān bin Buraidah narrated from his father who said: "When the Messenger of Allāh ﷺ sent a commander of an army, he would exhort him concerning himself to have *Taqwa* of Allāh, and he would exhort him to be good to those who are with him among the Muslims. He would say: 'Fight in the Name of Allāh, in the cause of Allāh. Fight those who disbelieve in Allāh, and do not steal from the spoils of war or be treacherous, nor mutilate, and do not kill a child. When you meet your enemy among the idolaters, then call them to one of three options or choices, whichever of them they respond to then accept it from them, and refrain from them. Call them to Islām, and to relocate from their land to the land of the Emigrants. Inform them that if they do that, then they will have similar to what those who emigrated have, and from them will be required similar to what is required from those who have emigrated. And if they refuse to relocate, then inform them that they will be like the Bedouins among the Muslims, and they will

١٦١٧ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ عَنْ سُفْيَانَ، عَنْ عَلْقَمَةَ بْنِ مَرْثَدٍ، عَنْ سُلَيْمَانَ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ قَالَ: كانَ رَسُولُ اللهِ ﷺ إذا بَعَثَ أَمِيرًا عَلَى جَيْشٍ أَوْصَاهُ في خَاصَّةِ نَفْسِهِ بِتَقْوَى اللهِ ومَنْ مَعَهُ مِنَ الْمُسْلِمِينَ خَيْرًا وقَالَ: «اغْزُوا بِسْمِ اللهِ وفي سَبِيلِ اللهِ، قَاتِلُوا مَنْ كَفَرَ باللهِ، ولَا تَغُلُّوا ولَا تَغْدُرُوا ولَا تُمَثِّلُوا، ولَا تَقْتُلُوا وَلِيدًا، فَإِذا لَقِيتَ عَدُوَّكَ مِنَ الْمُشْرِكِينَ فادْعُهُمْ إِلى إِحْدَى ثَلَاثِ خِصَالٍ أَوْ خِلَالٍ أَيَّتُهَا أَجَابُوكَ فاقْبَلْ مِنْهُمْ وكُفَّ عَنْهُمْ: وادْعُهُمْ إِلى الْإِسْلَامِ والتَّحَوُّلِ مِنْ دَارِهِمْ إِلَى دَارِ الْمُهَاجِرِينَ، وأَخْبِرْهُمْ أَنَّهُمْ إِنْ فَعَلُوا ذٰلِكَ فَإِنَّ لَهُمْ ما لِلْمُهَاجِرِينَ وَعَلَيْهِمْ ما عَلَى الْمُهَاجِرِينَ، وإِنْ أَبَوْا أَنْ يَتَحَوَّلُوا فَأَخْبِرْهُمْ أَنَّهُمْ يَكُونُونَ كأَعْرَابِ الْمُسْلِمِينَ يَجْرِي عَلَيْهِمْ ما يَجْرِي عَلَى الْأَعْرَابِ، لَيْسَ لَهُمْ في الْغَنِيمَةِ والْفَيْءِ شَيْءٌ إِلَّا أَنْ يُجَاهِدُوا، فَإِنْ أَبَوْا فَاسْتَعِنْ باللهِ عَلَيْهِمْ وَقَاتِلْهُم. وإِذَا حَاصَرْتَ حِصْنًا فَأَرَادُوكَ أَنْ تَجْعَلَ لَهُمْ ذِمَّةَ اللهِ وذِمَّةَ نَبِيِّهِ فَلَا تَجْعَلْ لَهُمْ ذِمَّةَ اللهِ ولَا ذِمَّةَ

be treated the same as the Bedouins are treated. There is no war spoils or *Fay'*[1] for them, unless they fight along with the Muslims. If they refuse then seek aid from Allāh against them and fight them. And if you lay siege to a fortress and they want you to grant them a covenant from Allāh and a covenant of His Prophet, then do not grant them the covenant of Allāh nor the covenant of His Prophet. Rather grant them your own covenant and the covenant of your companions. For if you break your covenant and the covenant of your companions, it will be better than breaking Allāh's covenant and the covenant of His Messenger. And if you lay siege to the people of a fortress and they want you to lift the siege for negotiating upon the judgement of Allāh, then do not stop, but rather make them surrender to your judgement, for you do not know if you will come upon the judgement of Allāh regarding them them or not.' Or similar to that." (***Saḥīḥ***)

[Abū 'Eīsā said:] There is something on this topic from An-Nu'mān bin Muqarrin, and the *Ḥadīth* of Buraidah is a *Hasan Saḥīḥ Ḥadīth*.

Muḥammad bin Bash-shār narrated to us (he said): "Abū Aḥmad narrated to us from Sufyān (who said): "Alqamah bin Marthad narrated to us' – and it is similar in its meaning, but he added in it: "If

[1] See no. 1556.

نَبِيِّهِ واجْعَلْ لَهُمْ ذِمَّتَكَ وذِمَمَ أَصْحَابِكَ، فَإِنَّكُمْ إِنْ تُخْفِرُوا ذِمَمَكُمْ وَذِمَمَ أَصْحَابِكُمْ خَيْرٌ مِنْ أَنْ تُخْفِرُوا ذِمَّةَ اللهِ وذِمَّةَ رَسُولِهِ، وإِذا حَاصَرْتَ أَهْلَ حِصْنٍ فَأَرَادُوكَ أَنْ تُنْزِلُوهُمْ عَلَى حُكْمِ اللهِ فَلَا تُنْزِلُوهُمْ، ولَكِنْ أَنْزِلْهُمْ عَلَى حُكْمِكَ، فَإِنَّكَ لَا تَدْرِي أَتُصِيبُ حُكْمَ اللهِ فِيهِمْ أَمْ لَا» أَوْ نَحْوَ ذَا.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ النُّعْمَانِ بْنِ مُقَرِّنٍ وحَدِيثُ بُرَيْدَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو أَحْمَدَ عَنْ سُفْيَانَ: حَدَّثَنَا عَلْقَمَةُ بْنُ مَرْثَدٍ نَحْوَهُ بِمَعْنَاهُ وزَادَ فِيهِ: «فَإِنْ أَبَوْا فَخُذْ مِنْهُمُ الْجِزْيَةَ، فَإِنْ أَبَوْا فاسْتَعِنْ باللهِ عَلَيْهِمْ».

[قَالَ أَبُو عِيسَى:] هٰكَذَا رَوَاهُ وَكِيعٌ وغَيْرُ واحِدٍ عَنْ سُفْيَانَ، وَرَوَى غَيْرُ مُحَمَّدِ بْنِ بَشَّارٍ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ مَهْدِيٍّ وَذَكَرَ فِيهِ أَمْرَ الْجِزْيَةِ.

they refuse, then take the *Jizyah* from them, and if they refuse then seek aid from Allāh against them."

[Abū 'Eīsā said:] This is how it was reported from Wakī' and others from Sufyān. And other than Muḥammad bin Bash-shār reported it from 'Abdur-Raḥmān bin Mahdī, and he mentioned the matter of the *Jizyah* in it.

تخريج: وأخرجه مسلم، الجهاد، باب تأمير الإمام الأمراء على البعوث ... إلخ، ح:١٧٣١ من حديث عبدالرحمن بن مهدي به * وفي الباب عن النعمان بن مقرن [تقدم:١٦١٢، ١٦١٣].

Comments:

Preaching and inviting to accept Islam is essential, it has been discussed in this narration the advice and guiding tips have been mentioned for the commander going on a venture. (See Book no. 17 Chapter 1)

1618. Anas bin Mālik narrated that the Prophet ﷺ would not attack except near the time of *Fajr*, so if he heard the *Adhān* he would refrain, and if not, then he would attack. So he listened one day and heard a man saying: "*Allāhu Akbar, Allāhu Akbar,*" so he said: "Upon the *Fiṭrah*." Then he said: "I bear witness that none has the right to be worshipped but Allāh." So he said: "You have departed from the Fire." (***Ṣaḥīḥ***)

(Another chain) with similar narration.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦١٨ - **حَدَّثَنَا** الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَفَّانُ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ: حَدَّثَنَا ثَابِتٌ عَنْ أَنَسِ بْنِ مالِكٍ قَالَ: كانَ النَّبِيُّ ﷺ لَا يُغِيرُ إلَّا عِنْدَ صَلَاةِ الفَجْرِ، فَإِنْ سَمِعَ أَذَانًا أَمْسَكَ وإلَّا أَغَارَ، واسْتَمَعَ ذَاتَ يَوْمٍ فَسَمِعَ رَجُلًا يَقُولُ: اللهُ أَكْبَرُ اللهُ أَكْبَرُ، فَقَالَ: «عَلَى الفِطْرَةِ» فَقَالَ: أَشْهَدُ أَنْ لَا إلٰهَ إلَّا اللهُ. فَقَالَ: «خَرَجْتَ مِنَ النَّارِ».

قَالَ الْحَسَنُ وحَدَّثَنَا [أَبُو] الوَلِيدِ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ بِهٰذَا الإسْنَادِ مِثْلَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الصلاة، باب الإمساك عن الإغارة على قوم في دارالكفر إذا سمع فيهم الأذان، ح:٣٨٢ من حديث حماد بن سلمة به.

Comments:

The purpose of lawful fighting is to make Allāh's Word uppermost in the land. Hearing the Call for Prayer from the village or town is a sign that Muslims reside there, so it should not be attacked.

In the Name of Allāh,
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

20. The Chapters On The Virtues Of *Jihād* From The Messenger Of Allāh ﷺ

(المعجم ٢٠) - أَبْوَابُ فَضَائِلِ الْجِهَادِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٨)

Chapter 1. (What Has Been Related About) The Virtue Of *Jihād*

(المعجم ١) - بَابُ [مَا جَاءَ فِي] فَضْلِ الْجِهَادِ (التحفة ١)

1619. Abū Hurairah narrated: "It was said, 'O Messenger of Allāh, what equals *Jihād*?' He said: 'Verily, you (people) are not capable of it.' So they repeated it to him two or three times, each time he said, 'You (people) are not capable of it.' Then he said the third time: 'The example of the *Mujāhid* in the path of Allāh is like the one who fasts and stands (in prayer) and does not slacken from *Salāt*, nor fasting, until the *Mujāhid* in the cause of Allāh returns.'" **(*Ṣaḥīḥ*)**

There are narrations on this topic from Ash-Shifā', 'Abdullāh bin Ḥubshī, Abū Mūsā, Abū Sa'eed, Umm Mālik Al-Bahziyyah, and Anas.

This *Ḥadīth* is a *Ḥasan Ṣaḥīḥ*. And it has been reported through more than one route from Abū Hurairah from the Prophet ﷺ.

١٦١٩ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قِيلَ: يَا رَسُولَ اللهِ، ما يَعْدِلُ الْجِهَادَ؟ قَالَ: «إِنَّكُمْ لَا تَسْتَطِيعُونَهُ»، فَرَدُّوا عَلَيْهِ مَرَّتَيْنِ أَوْ ثَلَاثًا كُلُّ ذٰلِكَ يَقُولُ: «لَا تَسْتَطِيعُونَهُ»، فَقَالَ فِي الثَّالِثَةِ: «مَثَلُ الْمُجَاهِدِ فِي سَبِيلِ اللهِ مَثَلُ الصَّائِمِ الْقَائِمِ الَّذِي لَا يَفْتُرُ مِنْ صَلَاةٍ ولَا صِيَامٍ، حَتَّى يَرْجِعَ الْمُجَاهِدُ فِي سَبِيلِ اللهِ».

وفِي الْبَابِ عَنِ الشِّفَاءِ، وعَبْدِ اللهِ بْنِ حُبْشِيٍّ، وأَبِي مُوسَى، وأَبِي سَعِيدٍ وأُمِّ مالِكٍ البَهْزِيَّةِ، وأَنسٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: وأخرجه مسلم، الإمارة، باب فضل الشهادة في سبيل الله تعالى، ح:١٨٧٨ من حديث أبي عوانة به * وفي الباب عن الشفاء [أحمد:٦/ ٣٧٢ وعبد بن حميد، ح:١٥٩١] وعبدالله

ابن حبشي [أبو داود، ح:١٣٢٥] وأبي موسى [يأتي:١٦٥٩] وأبي سعيد [ابن ماجه، ح:٢٧٥٤] وأم مالك البهزية [يأتي:٢١٧٧] وأنس بن مالك [يأتي:١٦٢٠].

Comments:

Jihād (fighting in the cause of Allāh) is an extremely important activity. Recompense and reward for the *Mujāhid* (he who undertakes *Jihād* in the cause of Allāh) is continuous, spanning his entire mission in the sense that, be it his awakening or sleep or any other activity, it shall bring him continued reward. His reward, thus, keeps accumulating regardless of his activities during his dispatchment.

1620. Anas [bin Mālik] narrated: "The Messenger of Allāh ﷺ said: meaning: Allāh [Mighty and Sublime is He] says:[1] 'The *Mujāhid* in My cause, he has a guarantee from Me. If I seize him, I cause him to inherit Paradise, and if I return him, I return him with a reward or spoils of war.'" (***Hasan***)

[He said:] This *Hadīth* is *Gharīb Sahīh* from this route.

١٦٢٠ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ بْنِ بَزِيعٍ: حَدَّثَنَا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ: حَدَّثَنِي مَرْزُوقٌ أَبُو بَكْرٍ عَنْ قَتَادَةَ، عَنْ أَنَسٍ [ابْنِ مالِكٍ] قَالَ: قَالَ رَسُولُ اللهِ ﷺ: يَعْنِي «يَقُولُ اللهُ [عَزَّ وجَلَّ]: الْمُجَاهِدُ فِي سَبِيلِي هُوَ عَلَيَّ ضَمَانٌ إِنْ قَبَضْتُهُ أَوْرَثْتُهُ الْجَنَّةَ، وإِنْ رَجَعْتُهُ رَجَعْتُهُ بِأَجْرٍ أَوْ غَنِيمَةٍ».

[قَالَ:] هٰذا حَدِيثٌ غَرِيبٌ صَحِيحٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: [حسن] وأخرجه ابن أبي عاصم في كتاب الجهاد، ح:٤٥ من حديث محمد بن عبدالله بن بزيع به مختصرًا وللحديث شواهد كثيرة عند مسلم، ح:١٨٧٦ وأبي داود، ح:٢٤٩٤، ٢٤٩٩ وغيرهما.

Comments:

Jihād is an activity that never fails to achieve its objective. For instance, if a *Mujāhid* meets his martyrdom on the battlefield, he goes straight to Paradise. If, on the other hand, he returns from the battle front alive, he either gets his reward from Allāh in the Hereafter or his share from the spoils of war in this world, or both. This means that, even if he receives no spoils of war in this world, his immense recompense and reward in the Hereafter are still assured.

Chapter 2. What Has Been Related About The Virtue Of The One Who Dies Guarding The Frontier From The Enemy

(المعجم ٢) - **بَابُ مَا جَاءَ فِي فَضْلِ مَنْ مَاتَ مُرَابِطًا** (التحفة ٢)

1621. Faḍālah bin 'Ubaid narrated that the Messenger of Allāh ﷺ

١٦٢١ - حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ: حَدَّثَنَا

[1] "It appears that the speaker is Anas, may Allāh be pleased with him. That is, he ﷺ means that "the *Mujāhid* in My path" is from the *Ahādīth Qudsiyyah*." *Tuhfat Al-Ahwadhī*.

عَبْدُ اللهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا حَيْوَةُ بْنُ شُرَيْحٍ، قَالَ أَخْبَرَنِي أَبُو هَانِيءٍ الْخَوْلَانِيُّ: أَنَّ عَمْرَو ابْنَ مَالِكٍ الْجَنْبِيَّ أَخْبَرَهُ: أَنَّهُ سَمِعَ فَضَالَةَ بْنَ عُبَيْدٍ يُحَدِّثُ عَنْ رَسُولِ اللهِ ﷺ أَنَّهُ قَالَ: «كُلُّ مَيِّتٍ يُخْتَمُ عَلَى عَمَلِهِ إِلَّا الَّذِي مَاتَ مُرَابِطًا فِي سَبِيلِ اللهِ، فَإِنَّهُ يُنْمَىٰ لَهُ عَمَلُهُ إِلَى يَوْمِ الْقِيَامَةِ ويَأْمَنُ فِتْنَةَ الْقَبْرِ» وسَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «الْمُجَاهِدُ مَنْ جَاهَدَ نَفْسَهُ».

said: "The deeds of everyone who dies are sealed. Except for the one who dies guarding the frontier from the enemy, in the cause of Allāh. For indeed his actions are increased for him until the Day of Judgement, and he is secure from the tribulation of the grave." And I heard the the Messenger of Allāh ﷺ saying: "The *Mujāhid* is one who strives against his own soul." **(*Ṣaḥīḥ*)**

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عُقْبَةَ ابْنِ عَامِرٍ، وَجَابِرٍ.

[Abū 'Eīsā said:] There are narrations on this topic from 'Uqbah bin 'Āmir and Jābir.

حَدِيثُ فَضَالَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

The *Ḥadīth* of Faḍālah is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الجهاد، باب: في فضل الرباط، ح:٢٥٠٠ من حديث أبي هانيء به وصححه ابن حبان، ح:١٦٢٤ والحاكم على شرط مسلم:٢/ ٧٩ ووافقه الذهبي وله طرق عند ابن ماجه، ح:٣٩٣٤ وابن حبان، ح:٢٥ وغيرهما مختصرًا ومطولاً * وفي الباب عن عقبة بن عامر [أحمد:٤/ ١٥٠] وجابر [الطبراني في الأوسط:٥/ ٤١٦، ح:٤٨٢٢].

Comments:

A person, who cannot fight or wage *Jihād* against his own inner self, and instead of subduing the enemy within, falls prey to its whims and desires; he can never challenge the enemy without. The task of going out into the open and challenging the enemy for the pleasure of Allāh can only be accomplished by those who have first successfully subdued their own inciting souls. See no. 1664.

Chapter 3. What Has Been Related About The Virtue Of Fasting In The Cause Of Allāh

(المعجم ٣) - بَابُ مَا جَاءَ فِي فَضْلِ الصَّوْمِ فِي سَبِيلِ اللهِ (التحفة ٣)

١٦٢٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ لَهِيعَةَ عَنْ أَبِي الْأَسْوَدِ، عَنْ عُرْوَةَ [بْنِ الزُّبَيْرِ] وَسُلَيْمَانَ بْنِ يَسَارٍ أَنَّهُمَا حَدَّثَاهُ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ صَامَ يَوْمًا فِي سَبِيلِ اللهِ زَحْزَحَهُ اللهُ عَنِ النَّارِ سَبْعِينَ خَرِيفًا». أَحَدُهُمَا يَقُولُ: سَبْعِينَ والآخَرُ

1622. Abū Al-Aswad narrated from 'Urwah [bin Az-Zubair], and Sulaimān bin Yasār, that they reported to him from Abū Hurairah that the Prophet ﷺ said: "Whoever fasts a day in the cause of Allāh, Allāh shall distance him from the Fire by seventy autumns." One of them said "seventy" and

the other said "forty." (***Hasan***)

[Abū 'Eīsā said:] This Hadīth is a *Gharīb Hadīth* from this route. Abū Al-Aswad's name is Muhammad bin 'Abdur-Rahmān bin Nawfal Al-Asadī Al-Madanī.

There are narrations on this topic from Abū Sa'eed, Anas, 'Uqbah bin 'Āmir, and Abū Umāmah.

يَقُولُ: أَرْبَعِينَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. وأَبُو الْأَسْوَدِ اسْمُهُ مُحَمَّدُ بْنُ عَبْدِ الرَّحْمٰنِ بْنِ نَوْفَلٍ الْأَسَدِيُّ الْمَدَنِيُّ.

وفِي الْبَابِ: عَنْ أَبِي سَعِيدٍ، وأَنَسٍ، وَعُقْبَةَ بْنِ عَامِرٍ، وأَبِي أُمَامَةَ.

تخريج: [حسن] وللحديث شواهد عند النسائي: ٤/ ١٧٢، ١٧٣، ح: ٢٢٤٦_٢٢٥٢ (الصيام، باب ثواب من صام يومًا في سبيل الله عزوجل ... إلخ) ومسلم، ح: ١١٥٣ وغيرهما ※ وفي الباب عن أبي سعيد [يأتي: ١٦٢٣] وأنس [لم أجده] وعقبة بن عامر [النسائي، ح: ٢٢٥٦] وأبي أمامة [يأتي: ١٦٢٤].

Comments:

If the man out in the field for the sake of Allāh is so lion-hearted and of such a resolute mind that his day-long fasting does not deter him from performing any of the tasks connected with *Jihād*, then on the basis of his sincerity of intention and deed exemplified by his dual action of fasting for the sake of Allāh, and giving a distinguished performance in the field, he shall be kept at a distance of seventy or forty years from Hellfire. In some other *Ahādīth* the distance has been mentioned as one hundred years.

These variations in the distance are due to the qualitative difference in sincerity and the nature of pains and hardship sustained by the persons concerned in the process.

1623. Abū Sa'eed Al-Khudrī narrated that the Prophet ﷺ: "A worshipper does not fast a day in the cause of Allāh except that, that day (of fasting) distances the Fire from his face by seventy autumns." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٦٢٣ - حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ [الْمَخْزُومِيُّ]: حَدَّثَنَا عَبْدُ اللهِ بْنُ الوَلِيدِ العَدَنِيُّ: حَدَّثَنَا سُفْيَانُ الثَّوْرِيُّ؛ ح [قَالَ]: وحَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا عُبَيْدُ اللهِ ابْنُ مُوسَى عَنْ سُفْيَانَ، عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنِ النُّعْمَانِ بْنِ أَبِي عَيَّاشٍ الزُّرَقِيِّ، عَنْ أَبِي سَعِيدٍ الخُدْرِيِّ عَنِ النَّبِيِّ ﷺ: «لَا يَصُومُ عَبْدٌ يَوْمًا فِي سَبِيلِ اللهِ إِلَّا بَاعَدَ ذٰلِكَ الْيَوْمُ النَّارَ عَنْ وَجْهِهِ سَبْعِينَ خَرِيفًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب فضل الصوم في سبيل الله، ح: ٢٨٤٠ ومسلم، ح: ١١٥٣ من حديث سهيل بن أبي صالح به.

١٦٢٤ - حَدَّثَنَا زِيَادُ بْنُ أَيُّوبَ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا الْوَلِيدُ بْنُ جَمِيلٍ عَنِ الْقَاسِمِ أَبِي عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي أُمَامَةَ [الْبَاهِلِيِّ] عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ صَامَ يَوْمًا فِي سَبِيلِ اللهِ جَعَلَ اللهُ بَيْنَهُ وبَيْنَ النَّارِ خَنْدَقًا كما بَيْنَ السَّمَاءِ والْأَرْضِ».

هٰذَا حَدِيثٌ غَرِيبٌ مِنْ حَدِيثِ أَبِي أُمَامَةَ.

1624. Abū Umāmah [Al-Bāhilī] narrated that the Prophet ﷺ said, "Whoever fasts a day in the cause of Allāh, Allāh shall put between him and the Fire a trench whose distance is like that between the heavens and the earth." (***Hasan***)

This *Hadīth* is *Gharīb* as a narration of Abū Umāmah.

تخريج: [**إسناده حسن**] وأخرجه الطبراني في الكبير: ٨/ ٢٨١، ح: ٧٩٢١ من حديث يزيد بن هارون به وللحديث شواهد عند الطبراني في الأوسط وغيره.

Comments:

Some of the scholars take the expression "in the cause of Allāh" as used in the *Hadīth* to mean "in obedience to Allāh". However, the fact of the matter is that it means *Jihād*. (*Tuhfat Al-Ahwadhī*, v.3, p.2).

Chapter 4. What Has Been Related About The Virtue Of Spending In The Cause Of Allāh

(المعجم ٤) - بَابُ مَا جَاءَ فِي فَضْلِ النَّفَقَةِ فِي سَبِيلِ اللهِ (التحفة ٤)

١٦٢٥ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا الْحُسَيْنُ [بْنُ عَلِيٍّ] الْجُعْفِيُّ عَنْ زَائِدَةَ، عَنِ الرُّكَيْنِ بْنِ الرَّبِيعِ، عَنْ أَبِيهِ، عَنْ يُسَيْرِ بْنِ عَمِيلَةَ، عَنْ خُرَيْمِ بْنِ فَاتِكٍ قال رسولُ الله ﷺ: «مَنْ أَنْفَقَ نَفَقَةً فِي سَبِيلِ اللهِ كُتِبَتْ لَهُ سَبْعُمِائَةِ ضِعْفٍ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

وهٰذَا حَدِيثٌ حَسَنٌ إِنَّمَا نَعْرِفُهُ مِنْ حَدِيثِ الرُّكَيْنِ بْنِ الرَّبِيعِ.

1625. Khuraim bin Fātik narrated that the Messenger of Allāh ﷺ said: "Whoever spends a sum in the cause of Allāh, it is recorded for him seven-hundred fold." (***Sahīh***)

[Abū 'Eīsā said:] There is something on this topic from Abū Hurairah.

This *Hadīth* is *Hasan*, we only know of it from the narration of Ar-Rukain bin Ar-Rabī' (a narrator in the chain of this *Hadīth*).

تخريج: [**إسناده صحيح**] وأخرجه ابن أبي شيبة: ٥/ ٣١٨ عن الحسين بن علي الجعفي به

ورواه النسائي: ٦/ ٤٩، ح: ٣١٨٨ من حديث الركين، وصححه ابن حبان، ح: ٣١، ١٦٤٧ والحاكم: ٢/ ٨٧ والذهبي وغيرهم * وفي الباب عن أبي هريرة [يأتي: ٣٦٧٤].

Comments:

This *Hadīth* tells us that *Jihād* is an act of such great virtue that, instead of the usual tenfold, its minimum reward is seven-hundred-fold.

Chapter 5. What Has Been Related About The Virtue Of Service In The Cause Of Allāh

(المعجم ٥) - **بَابُ مَا جَاءَ فِي فَضْلِ الْخِدْمَةِ فِي سَبِيلِ اللهِ** (التحفة ٥)

1626. 'Adī bin Hātim Aṭ-Ṭā'ī narrated that he asked the Messenger of Allāh ﷺ, "Which charity is the most virtuous?" He said, "The service of a worshipper in the cause of Allāh, or providing the shade of a tent,[1] or mount in the cause of Allāh." (*Hasan*)

[Abū 'Eīsā said:] This *Hadīth* has been reported from Mu'āwiyah bin Ṣāliḥ in *Mursal* form. And Zaid has been contradicted concerning part of its chain.

He said: And Al-Walīm bin Jamīl has reported this *Hadīth* from Al-Qāsim Abū 'Abdur-Raḥmān, from Abū Umāmah, from the Prophet ﷺ.

١٦٢٦ - حَدَّثَنَا مُحَمَّدُ بْنُ رَافِعٍ: حَدَّثَنَا زَيْدُ بْنُ حُبَابٍ: حَدَّثَنَا مُعَاوِيَةُ بْنُ صَالِحٍ عَنْ كَثِيرِ بْنِ الحَارِثِ، عَنِ القَاسِمِ أَبِي عَبْدِ الرَّحْمٰنِ، عَنْ عَدِيِّ بْنِ حَاتِمٍ الطَّائِيِّ: أَنَّهُ سَأَلَ رَسُولَ اللهِ ﷺ: أَيُّ الصَّدَقَةِ أَفْضَلُ؟ قَالَ: «خِدْمَةُ عَبْدٍ فِي سَبِيلِ اللهِ، أَوْ ظِلُّ فُسْطَاطٍ، أَوْ طَرُوقَةُ فَحْلٍ فِي سَبِيلِ اللهِ».

[قَالَ أَبُو عِيسَى:] وَقَدْ رُوِيَ عَنْ مُعَاوِيَةَ ابْنِ صَالِحٍ: هٰذَا الحَدِيثُ مُرْسَلًا وَخُولِفَ زَيْدٌ فِي بَعْضِ إِسْنَادِهِ. قَالَ: وَرَوَى الوَلِيدُ بْنُ جَمِيلٍ هٰذَا الحَدِيثَ عَنِ القَاسِمِ أَبِي عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي أُمَامَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: [إسناده حسن] وأخرجه الحاكم: ٢/ ٩٠، ٩١ من حديث زيد بن حباب، والطبراني: ١٧/ ١٠٦، ح: ٢٥٥ من حديث معاوية بن صالح به وصححه الحاكم ووافقه الذهبي وللحديث شاهد حسن يأتي بعده.

1627. Abū Umāmah narrated that the Messenger of Allāh ﷺ said: "The most virtuous of charitable spending is the shade of a tent in the cause of Allāh, or giving a

١٦٢٧ - حَدَّثَنَا بِذٰلِكَ زِيَادُ بْنُ أَيُّوبَ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: أَخْبَرَنَا الوَلِيدُ بْنُ جَمِيلٍ عَنِ القَاسِمِ أَبِي عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي أُمَامَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «أَفْضَلُ الصَّدَقَاتِ

[1] "A tent under which the *Mujāhid* may be shaded. That is, erecting a tent or a shelter for the fighters to use for shade." (*Tuḥfat Al-Aḥwadhī*).

servant in the cause of Allāh, or a riding camel in the cause of Allāh." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*, and it is more correct to me than the narration of Mu'āwiyah bin Ṣāliḥ.

ظِلُّ فُسْطَاطٍ فِي سَبِيلِ اللهِ، ومَنِيحَةُ خَادِمٍ فِي سَبِيلِ اللهِ، أَوْ طَرُوقَةُ فَحْلٍ فِي سَبِيلِ اللهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ وهُوَ أَصَحُّ عِنْدِي مِنْ حَدِيثِ مُعَاوِيَةَ بْنِ صَالِحٍ.

تخريج: [إسناده حسن] وأخرجه أحمد: ٥/ ٢٦٩ من حديث القاسم أبي عبدالرحمن به.

Comments:

That the most virtuous form of charitable spending is either to provide a servant to the fighter in the cause of Allāh, or donate a tent or pitch it for the warrior, or provide a serviceable mount for him.

Chapter 6. What Has Been Related About The One Who Prepares A Fighter

(المعجم ٦) - بَابُ مَا جَاءَ فِيمَنْ جَهَّزَ غَازِيًا (التحفة ٦)

1628. Zaid bin Khālid Al-Juhanī narrated that the Messenger of Allāh ﷺ said, "Whoever prepares a fighter in Allāh's cause, he has participated in a military expedition, and whoever looks after the family of a fighter, he has participated in a military expedition." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, and it has been reported through more than one route.

١٦٢٨ - **حَدَّثَنَا** أَبُو زَكَرِيَّا يَحْيَى بْنُ دُرُسْتَ [الْبَصْرِيُّ]: حَدَّثَنَا أَبُو إِسْمَاعِيلَ: حَدَّثَنَا يَحْيَى بْنُ أَبِي كَثِيرٍ عَنْ أَبِي سَلَمَةَ، عَنْ بُسْرِ بْنِ سَعِيدٍ، عَنْ زَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ عَنْ رَسُولِ اللهِ ﷺ قَالَ: «مَنْ جَهَّزَ غَازِيًا فِي سَبِيلِ اللهِ فَقَدْ غَزَا، وَمَنْ خَلَفَ غَازِيًا فِي أَهْلِهِ فَقَدْ غَزَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ مِنْ غَيْرِ هٰذَا الْوَجْهِ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب فضل من جهز غازيًا أو خلفه بخير، ح: ٢٨٤٣ ومسلم، ح: ١٨٩٥ من حديث يحيى بن أبي كثير به * أبوإسماعيل هو القناد.

1629. Zaid bin Khālid Al-Juhanī narrated that the Messenger of Allāh ﷺ said, "Whoever prepares a fighter in Allāh's cause, or looks after the family of a fighter, then he has participated in a military expedition." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

١٦٢٩ - **حَدَّثَنَا** ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ [بْنُ عُيَيْنَةَ] عَنِ ابْنِ أَبِي لَيْلَى، عَنْ عَطَاءٍ، عَنْ زَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ جَهَّزَ غَازِيًا فِي سَبِيلِ اللهِ أَوْ خَلَفَهُ فِي أَهْلِهِ فَقَدْ غَزَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: [صحيح] وانظر الحديث السابق والآتي * ابن أبي ليلى هو محمد بن عبدالرحمن ابن أبي ليلى ضعيف من جهة حفظه، ولكن تابعه عبدالملك بن أبي سليمان.

1630. Zaid bin Khālid Al-Juhanī narrated that the Prophet ﷺ said similarly. (***Ṣaḥīḥ***)

١٦٣٠ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ أَبِي سُلَيْمَانَ عَنْ عَطاءٍ، عَنْ زَيْدِ بْنِ خالِدٍ الْجُهَنِيِّ عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

تخريج: [إسناده صحيح].

1631. Zaid ibn Khālid Al-Juhani said: that the Messenger of Allāh ﷺ said, "Whoever prepares a fighter in Allāh's cause, he has participated in a military expedition, and whoever watches after the family of a fighter, he has participated in a military expedition."(***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٣١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا حَرْبُ بْنُ شَدَّادٍ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَمَةَ، عَنْ بُسْرِ بْنِ سَعِيدٍ، عَنْ زَيْدِ بْنِ خَالِدٍ الْجُهَنِيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ جَهَّزَ غَازِيًا فِي سَبِيلِ اللهِ فَقَدْ غَزَا وَمَنْ خَلَفَ غَازِيًا فِي أَهْلِهِ فَقَدْ غَزَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حديثٌ حسن صحيحٌ.

تخريج: متفق عليه من حديث يحيى بن أبي كثير به كما تقدم: ١٦٢٨.

Comments:

Helping a *Mujāhid* with money and material is an act of such great virtue that it is considered as good as one's physical participation in *Jihād*. Similarly, taking care of the family members of the *Mujāhid* in his absence and helping them with their daily needs and necessities is also considered as good as one's physical participation in *Jihād*.

Chapter 7. What Has Been Related About The Virtue Of The One Whose Two Feet Became Dusty In The Cause Of Allāh

(المعجم ٧) - **بَابُ مَا جَاءَ فِي فَضْلِ مَنِ اغْبَرَّتْ قَدَمَاهُ فِي سَبِيلِ اللهِ** (التحفة ٧)

1632. Yazīd bin Abū Maryam said: "Abāyah bin Rifā'ah bin Rāfi' met me while I was walking to the Friday prayer. He said: 'Have glad tidings, for indeed these footsteps

١٦٣٢ - حَدَّثَنَا أَبُو عَمَّارٍ [الْحُسَيْنُ بْنُ حُرَيْثٍ]: حَدَّثَنَا الْوَلِيدُ بْنُ مُسْلِمٍ عَنْ يَزِيدَ بْنِ أَبِي مَرْيَمَ قَالَ: لَحِقَنِي عَبَايَةُ بْنُ رِفَاعَةَ بْنِ

رَافِعٍ وأَنَا مَاشٍ إِلَى الْجُمُعَةِ فَقَالَ: أَبْشِرْ فَإِنَّ خُطَاكَ هَذِهِ فِي سَبِيلِ اللهِ، سَمِعْتُ أَبَا عَبْسٍ يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «مَنِ اغْبَرَّتْ قَدَمَاهُ فِي سَبِيلِ اللهِ فَهُمَا حَرَامٌ عَلَى النَّارِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ. وأَبُو عَبْسٍ اسْمُهُ عَبْدُ الرَّحْمٰنِ بْنُ جَبْرٍ.

وفِي الْبَابِ عَنْ أَبِي بَكْرٍ ورَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ [قَالَ:] ويَزِيدُ بْنُ أَبِي مَرْيَمَ هُوَ رَجُلٌ شَامِيٌّ رَوَى عَنْهُ الوَلِيدُ بْنُ مُسْلِمٍ ويَحْيَى بْنُ حَمْزَةَ وغَيْرُ واحِدٍ مِنْ أَهْلِ الشَّامِ. وبُرَيْدُ بْنُ أَبِي مَرْيَمَ كُوفِيٌّ أَبُوهُ مِنْ أَصْحَابِ النَّبِيِّ ﷺ واسْمُهُ مَالِكُ بْنُ رَبِيعَةَ. [وبُرَيْدُ بْنُ أَبِي مَرْيَمَ سَمِعَ مِن أَنَسِ بْنِ مَالِكٍ. ورَوَى عَنْ بُرَيْدِ بْنِ أَبِي مَرْيَمَ أَبُو إِسْحَاقَ الهَمْدَانِيُّ وعَطَاءُ بْنُ السَّائِبِ ويُونُسُ ابْنُ أَبِي إِسْحَاقَ وشُعْبَةُ أَحادِيثَ].

of yours are in the cause of Allāh. I heard Abū 'Abs say: "The Messenger of Allāh ﷺ said, 'Whoever gets his two feet dusty in the path of Allāh, then they are prohibited for the Fire.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*. Abū 'Abs's name is 'Abdur-Raḥmān bin Jabr. There are narrations on this topic from Abū Bakr and a man from the Companions of the Prophet ﷺ.

He said: Yazīd bin Abī Maryam is a man from Ash-Shām. Al-Walīd bin Muslim, Yaḥya bin Ḥamzah, and some others among the people of Ash-Shām report from him.

Buraid bin Abī Maryam is from Al-Kūfah. His father is one of the Companions of the Prophet ﷺ whose name was Mālik bin Rabī'ah. [Buraid bin Abī Maryam heard from Anas bin Mālik. Abū Isḥāq Al-Hamdānī, 'Aṭā' bin As-Sā'ib, Yūnus bin Abī Isḥāq, and Shu'bah reported *Aḥādīth* from Buraid bin Abī Maryam].

تخريج: وأخرجه البخاري، الجمعة، باب المشي إلى الجمعة، ح:٩٠٧ من حديث الوليد بن مسلم به * وفي الباب عن أبي بكر [البزار (كشف الأستار):٢/ ٢٦٢، ح:١٦٦٠، ١٦٦١ والمروزي في مسند أبي بكر، ح:٢٠ وسنده ضعيف جدًّا] ورجل من أصحاب النبي ﷺ [أحمد:٥/ ٢٢٥].

Comments:

What transpires from the narrator's report is that, in his view, anything done for the pleasure of Allāh is a deed done in the cause of Allāh. Now, if mere walking on foot toward a virtuous deed or with the intention of winning the pleasure of Allāh can earn so much reward, the extent of reward that one would get for taking pains and exerting one's utmost energies for it can very well be imagined.

Chapter 8. What Has Been Related About The Virtue Of Dust In Allāh's Cause

(المعجم ٨) - بَابُ مَا جَاءَ فِي فَضْلِ الْغُبَارِ فِي سَبِيلِ اللهِ (التحفة ٨)

1633. Abū Hurairah narrated that the Messenger of Allāh ﷺ said, "A man who wept out of the fear of Allāh shall not enter the Fire until the milk returns to the udder; and dust in the cause of Allāh and the smoke of Hell shall not come together." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Muḥammad bin 'Abdur-Raḥmān is the freed slave of Abū Ṭalḥah, and he is from Al-Madīnah.

١٦٣٣ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا ابْنُ الْمُبَارَكِ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ عَبْدِ اللهِ الْمَسْعُودِيِّ، عَنْ مُحَمَّدِ بْنِ عَبْدِ الرَّحْمٰنِ، عَنْ عِيسَى بْنِ طَلْحَةَ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا يَلِجُ النَّارَ رَجُلٌ بَكَىٰ مِنْ خَشْيَةِ اللهِ حَتَّى يَعُودَ اللَّبَنُ فِي الضَّرْعِ، وَلَا يَجْتَمِعُ غُبَارٌ فِي سَبِيلِ اللهِ وَدُخَانُ جَهَنَّمَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

ومُحَمَّدُ بْنُ عَبْدِ الرَّحْمٰنِ هُوَ مَوْلَىٰ أَبِي طَلْحَةَ مَدَنِيٌّ.

تخريج: [صحيح] وأخرجه النسائي: ٦/ ١٢، ح: ٣١١٠ (الجهاد، باب فضل من عمل في سبيل الله على قدمه) عن هناد به ورواه جعفر بن عون عن المسعودي به والحاكم: ٤/ ٢٦٠ وهو سمع من المسعودي قبل اختلاطه، وصححه الحاكم ووافقه الذهبي، وسيأتي الحديث: ٢٣١١ وللحديث شواهد.

Comments:

The welling up of tears in a person's eye from the fear of Allāh is an indication of how particular he is about obeying the commands of Allāh and avoiding the things prohibited by Him. Surely, a man of this distinguished quality is of the people of Paradise. The dust of the road that rises up like smoke shall screen the raging fire of Hell. And just as it is inconceivable that milk, once taken out shall go back into the udders, it is impossible that a person fears Allāh and enters the Hellfire. The statement is an example of what we call 'attaching impossible conditions to the happening of an event'.

Chapter 9. What Has Been Related About The Virtue of Developing Gray Hair In Allāh's Cause

(المعجم ٩) - بَابُ مَا جَاءَ فِي فَضْلِ مَنْ شَابَ شَيْبَةً فِي سَبِيلِ اللهِ (التحفة ٩)

1634. Shuraḥbīl bin As-Simṭ said: "O Ka'b bin Murrah! Relate (something) to us from the Messenger of Allāh ﷺ, and be

١٦٣٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ عَمْرِو بْنِ مُرَّةَ، عَنْ سَالِمِ ابْنِ أَبِي الْجَعْدِ أَنَّ شُرَحْبِيلَ بْنَ السِّمْطِ قَالَ:

يا كَعْبُ بْنَ مُرَّةَ حَدِّثْنَا عَنْ رَسُولِ اللهِ ﷺ واحْذَرْ، قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «مَنْ شَابَ شَيْبَةً في الْإِسْلَامِ كَانَتْ لَهُ نُورًا يَوْمَ القِيَامَةِ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ فَضَالَةَ بْنِ عُبَيْدٍ، وعَبْدِ اللهِ بْنِ عَمْرٍو. وحَدِيثُ كَعْبِ بْنِ مُرَّةَ، هٰكَذَا رَوَاهُ الْأَعْمَشُ عَنْ عَمْرِو بْنِ مُرَّةَ.

وقَدْ رُوِيَ هٰذَا الحَدِيثُ عَنْ مَنْصُورٍ، عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ وَأَدْخَلَ بَيْنَهُ وَبَيْنَ كَعْبِ ابْنِ مُرَّةَ في الْإِسْنَادِ رَجُلًا، ويُقَالُ: كَعْبُ بْنُ مُرَّةَ ويُقَالُ: مُرَّةُ بْنُ كَعْبٍ البَهْزِيُّ، والْمَعْرُوفُ مِنْ أَصْحَابِ النَّبِيِّ ﷺ مُرَّةُ بْنُ كَعْبٍ البَهزِيُّ، وقَدْ رَوَى عَنِ النَّبِيِّ ﷺ أَحَادِيثَ.

cautious. He said: 'I heard the Prophet ﷺ say: "Whoever develops some gray hair in Islam, it shall be a light for him on the Day of Judgement." (***Ḍa'īf***)

[Abū 'Eīsā said:] There is something on this topic from Faḍālah bin 'Ubaid and 'Abdullāh bin 'Amr. The narration of Ka'b bin Murrah was reported like this from Al-A'mash, from 'Amr bin Murrah.

This *Ḥadīth* has been reported from Manṣūr, from Sālim bin Abū Al-Ja'd, and he included a man between him and between Ka'b bin Murrah in the chain. He is called: "Ka'b bin Murrah," and he is called: "Murrah bin Ka'b Al-Bahzī," and the one known among the Companions of the Prophet ﷺ is Ka'b bin Murrah Al-Bahzī, he reported some *Aḥādīth* from the Prophet ﷺ.

تخريج: [إسناده ضعيف] وأخرجه النسائي: ٦/ ٢٧، ح: ٣١٤٦ (الجهاد، باب ثواب من رمى بسهم في سبيل الله عزوجل) وابن ماجه، ح: ٢٥٢٢ من حديث أبي معاوية الضرير به والسند منقطع ولبعض الحديث شواهد عند مسلم، ح: ١٥٠٩ والحميدي، ح: ٧٦٧ وغيرهما * وفي الباب عن فضالة بن عبيد [أحمد: ٦/ ٢٠ وعبدالله بن عمرو [يأتي: ٢٨٢١].

١٦٣٥ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ [الْمَرْوَزِيُّ]: حَدَّثَنَا حَيْوَةُ بْنُ شُرَيْحٍ عَنْ بَقِيَّةَ، عَنْ بَحِيرِ بْنِ سَعْدٍ، عَنْ خالِدِ بْنِ مَعْدَانَ، عَنْ كَثِيرِ بْنِ مُرَّةَ الحَضْرَمِيِّ، عَنْ عَمْرِو بْنِ عَبَسَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ شَابَ شَيْبَةً في سَبِيلِ اللهِ كَانَتْ لَهُ نُورًا يَوْمَ القِيَامَةِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

1635. 'Amr bin 'Abasah narrated that the Messenger of Allāh ﷺ said: "Whoever develops some gray hair in the cause of Allāh, it shall be a light for him on the Day of Judgement." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*. As for Ḥaiwah bin Shuraih, (the remainder of his name is) Ibn Yazīd Al-Ḥimṣī.

صَحِيحٌ غَرِيبٌ، وَحَيْوَةُ بْنُ شُرَيْحٍ هُوَ ابْنُ يَزِيدَ الحِمْصِيُّ.

تخريج: [صحيح] وأخرجه أحمد: ٤/ ٣٨٦ من حديث حيوة به وبقية صرح بالسماع عنده ورواه النسائي، ح: ٣١٤٤ من حديث عمرو بن عبسة به وللحديث شواهد عند أبي داود، ح: ٣٩٦٦ والنسائي وغيرهما.

Chapter 10. What Has Been Related About One Who Keeps And Prepares A Horse In The Cause Of Allāh

(المعجم ١٠) - بَابُ مَا جَاءَ مَنِ ارْتَبَطَ فَرَسًا فِي سَبِيلِ اللهِ (التحفة ١٠)

1636. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The forelocks of horses contain good until the Day of Judgement. The horse is for three (purposes): It is for one man a reward, and it is for one man a shelter (from poverty), and it is for one man a burden. As for the one whom it is a reward for, it is the one who acquires it for the cause of Allāh and then prepares it for that; it is for him a reward, nothing disappears into its stomach except that Allāh writes it for him as a reward." [And there is a story in the *Ḥadīth*]. (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Mālik bin Anas narrated similar to this *Ḥadīth* from Zaid bin Aslam from Abū Ṣāliḥ from Abu Hurairah, from the Prophet ﷺ.

١٦٣٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ ابْنُ مُحَمَّدٍ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْخَيْلُ مَعْقُودٌ فِي نَوَاصِيهَا الخَيْرُ إِلَىٰ يَوْمِ القِيَامَةِ، الخَيْلُ لِثَلَاثَةٍ: هِيَ لِرَجُلٍ أَجْرٌ، وهِيَ لِرَجُلٍ سِتْرٌ، وهِيَ عَلَى رَجُلٍ وِزْرٌ، فَأَمَّا الَّذِي هِيَ لَهُ أَجْرٌ فالَّذِي يَتَّخِذُهَا فِي سَبِيلِ اللهِ فَيُعِدُّهَا لَهُ، هِيَ لَهُ أَجْرٌ لَا يَغِيبُ فِي بُطُونِهَا شَيْءٌ إِلَّا كَتَبَ اللهُ لَهُ أَجْرًا» [وفِي الْحَدِيثِ قِصَّةٌ].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رَوَى مَالِكُ بْنُ أَنَسٍ عَنْ زَيْدِ ابْنِ أَسْلَمَ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَ هٰذَا الْحَدِيثِ.

تخريج: [إسناده صحيح] وأخرجه النسائي: ٦/ ٢١٥، ح: ٣٥٩٢ (الخيل، باب: "الخيل معقود في نواصيها الخير إلى يوم القيامة") من حديث سهيل به مطولاً وللحديث شواهد كثيرة * حديث مالك في الموطأ: ٢/ ٤٤٤-٤٤٦ بطوله ومن طريقه أخرجه البخاري، ح: ٢٨٦٠ ومسلم، ح: ٩٨٧ وغيرهما.

Comments:

The whiteness of the hair, shall illuminate the path of Paradise amidst the enveloping darkness of the Doomsday.

Comments:

The *Ḥadīth* promises in no uncertain terms that horses shall continue to be used for *Jihād* until the Last Day and shall be a means of reward for the believers from Allāh in the Hereafter as well as the spoils of war in this world. The narration of the *Ḥadīth* as quoted in *Ṣaḥīḥ Muslim*, also mentions the three purposes connected with the horses and the three kinds of men who will keep them as referred to in the *Ḥadīth*. It also narrates a story related to them. (*Tuḥfat Al-Aḥwadhī*: v.3, p.6. Also see notes and comments on the *Ḥadīth* given in *Ṣaḥīḥ Muslim*).

Chapter 11. What Has Been Related About The Virtue Of Archery In The Cause Of Allāh

(المعجم ١١) - بَابُ مَا جَاءَ فِي فَضْلِ الرَّمْيِ فِي سَبِيلِ اللهِ (التحفة ١١)

1637. 'Abdullāh bin 'Abdur-Raḥmān bin Abū Ḥusain narrated that the Messenger of Allāh ﷺ said: "Indeed, Allāh will surely admit three into Paradise by a single arrow. Its maker who seeks good by his making it, the one who shoots it, and the one who holds arrows for him." And he said: "Practice archery and practice riding, and that you should practice archery is more beloved to me than that you should ride. All idle pastimes that the Muslim man engages in are falsehood, except for his shooting of his bow, his training of his horse, and his playing with his wife, for they are from truth." (***Ṣaḥīḥ***)

(Another chain) from 'Abdullāh bin Al-Azraq, from 'Uqbah bin 'Āmir [Al-Juhanī] from the Prophet ﷺ with similar meaning.

[Abū 'Eīsā said:] There are narrations on this topic from Ka'b bin Murrah, 'Amr bin 'Abasah, and 'Abdullāh bin 'Amr. This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٣٧ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: أَخْبَرَنَا مُحَمَّدُ بْنُ إِسْحَاقَ عَنْ عَبْدِ اللهِ بْنِ عَبْدِ الرَّحْمٰنِ بْنِ أَبِي حُسَيْنٍ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِنَّ اللهَ لَيُدْخِلُ بِالسَّهْمِ الوَاحِدِ ثَلَاثَةً الْجَنَّةَ: صَانِعَهُ يَحْتَسِبُ فِي صَنْعَتِهِ الْخَيْرَ، والرَّامِيَ بِهِ، والمُمِدَّ بِهِ» وقَالَ: «ارْمُوا وارْكَبُوا، ولَأَنْ تَرْمُوا أَحَبُّ إِلَيَّ مِنْ أَنْ تَرْكَبُوا. كُلُّ مَا يَلْهُو بِهِ الرَّجُلُ المُسْلِمُ بَاطِلٌ إِلَّا رَمْيَهُ بِقَوْسٍ، وَتَأْدِيبَهُ فَرَسَهُ، وَمُلَاعَبَتَهُ أَهْلَهُ، فَإِنَّهُنَّ مِنَ الْحَقِّ».

حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: حَدَّثَنَا هِشَامٌ الدَّسْتَوَائِيُّ عَنْ يَحْيَى ابْنِ أَبِي كَثِيرٍ، عَنْ أَبِي سَلَّامٍ، عَنْ عَبْدِ اللهِ ابْنِ الْأَزْرَقِ، عَنْ عُقْبَةَ بْنِ عَامِرٍ [الجُهَنِيِّ] عَنِ النَّبِيِّ ﷺ مِثْلَهُ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ كَعْبِ ابْنِ مُرَّةَ، وَعَمْرِو بْنِ عَبَسَةَ، وعَبْدِ اللهِ بْنِ عَمْرٍو.

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] سنده ضعيف والحديث الآتي شاهد له.

Comments:

Jihād in the cause of Allāh is an extremely virtuous act that fetches great reward from Allāh. As a consequence of it, activities like (i) manufacturing weapons for it with purity of intention, (ii) providing those weapons to the fighter, and (iii) replenishing them for him and exerting one's efforts in his defence, are all activities connected with *Jihād* that shall fetch reward from Allāh. And obviously, keeping the horses and training them for the purpose is also a part of that activity.

1638. Abū Najīḥ As-Sulamī [may Allāh be pleased with him] said, I heard the Messenger of Allāh ﷺ say: "Whoever shoots an arrow in the cause of Allāh, then he has the reward of freeing a slave." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadth* is *Ḥasan Ṣaḥīḥ*. Abū Najīḥ is 'Amr bin 'Abasah As-Sulamī, and 'Abdullāh bin Al-Azraq is 'Abdullāh bin Zaid.

١٦٣٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ عَنْ أَبِيهِ، عَنْ قَتَادَةَ، عَنْ سَالِمِ ابْنِ أَبِي الْجَعْدِ، عَنْ مَعْدَانَ بْنِ أَبِي طَلْحَةَ، عَنْ أَبِي نَجِيحٍ السُّلَمِيِّ [رَضِيَ اللهُ عَنْهُ] قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «مَنْ رَمَىٰ بِسَهْمٍ فِي سَبِيلِ اللهِ فَهُوَ لَهُ عِدْلُ مُحَرَّرٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ صَحِيحٌ، وأَبُو نَجِيحٍ هُوَ عَمْرُو بْنُ عَبَسَةَ السُّلَمِيُّ، وعَبْدُ اللهِ بْنُ الْأَزْرَقِ هُوَ عَبْدُ اللهِ بْنُ زَيْدٍ.

تخريج: [صحيح] وأخرجه أبو داود، العتق، باب أي الرقاب أفضل، ح:٣٩٦٥ من حديث معاذ بن هشام به وقتادة صرح بالسماع عند ابن المبارك في كتاب الجهاد، ح:٢١٩ وغيره، وصححه ابن حبان والحاكم والذهبي وغيرهم.

Comments:

Freeing slaves is an act of great virtue for which the promised reward is salvation from Fire. Equal in merit is a person using his weapons in the cause of Allāh. Therefore, learning and practising the use of weapons must be regarded as superior to practising the art of riding.

Chapter 12. What Has Been Related About The Virtue Of Standing Guard In The Cause Of Allāh

(المعجم ١٢) - بَابُ مَا جَاءَ فِي فَضْلِ الْحَرَسِ فِي سَبِيلِ اللهِ (التحفة ١٢)

1639. Ibn 'Abbās said: "I heard the Messenger of Allāh ﷺ saying, 'There are two eyes that shall not be touched by the Fire: An eye that wept from the fear of Allāh, and an eye that spent the night standing

١٦٣٩ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا بِشْرُ بْنُ عُمَرَ: حَدَّثَنَا شُعَيْبُ بْنُ رُزَيْقٍ أَبُو شَيْبَةَ: حَدَّثَنَا عَطَاءٌ الْخُرَاسَانِيُّ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: سَمِعْتُ رَسُولَ

on guard in the cause of Allāh." (*Ḥasan*)

[Abū 'Eīsā said:] There are narrations on this topic from 'Uthmān and Abū Raiḥānah.

The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Gharīb Ḥadīth*, we do not know of it except through the narration of Shu'aib bin Ruzaiq.

اللهِ ﷺ يَقُولُ: «عَيْنَانِ لَا تَمَسُّهُمَا النَّارُ: عَيْنٌ بَكَتْ مِنْ خَشْيَةِ اللهِ، وَعَيْنٌ بَاتَتْ تَحْرُسُ فِي سَبِيلِ اللهِ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عُثْمَانَ، وأَبِي رَيْحَانَةَ.

[و]حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ شُعَيْبِ بْنِ رُزَيْقٍ.

تخريج: [حسن] وأخرجه ابن أبي عاصم في الآحاد والمثاني، ح:١٤٦ من حديث بشر بن عمر بن الحكم الزهراني به وللحديث شواهد عند النسائي:٦/ ١٥، ح:٣١١٩ وابن أبي عاصم، ح:١٤٧ وغيرهما * وفي الباب عن عثمان [يأتي:١٦٦٧] وأبي ريحانة [النسائي: ٦/ ١٥، ح:٣١١٩].

Comments:

An eye that sheds tears from the fear of Allāh protects its owner from the invasion of his own soul as well as of Satan. An eye that stands guard in the night, likewise, protects the believers from the invasion of the enemy. As a reward for this service, the eyes are saved from Fire. However, as is obvious, the eye can only be saved from Fire if its master is saved from it.

Chapter 13. What Has Been Related About The Martyr's Reward

(المعجم ١٣) - بَابُ مَا جَاءَ فِي ثَوَابِ الشَّهِيدِ (التحفة ١٣)

1640. Anas narrated that the Messenger of Allāh ﷺ said: "Dying in the cause of Allāh expiates every sin." Jibrīl said: "Except for debt." So the Messenger of Allāh ﷺ said: "Except for debt." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There are narrations on this topic from Ka'b bin 'Ujrah, Jābir, Abū Hurairah, and Abū Qātadah. This *Ḥadīth* is *Gharīb*, we do not know of it as a *Ḥadīth* of Abū Bakr (a narrator) except from this Shaikh (Yaḥya bin Ṭalḥah).

He said: I asked Muḥammad bin Ismā'īl about this *Ḥadīth* and he

١٦٤٠ - حَدَّثَنَا يَحْيَى بْنُ طَلْحَةَ [الْيَرْبُوعِيُّ] الكُوفِيُّ: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْقَتْلُ فِي سَبِيلِ اللهِ يُكَفِّرُ كُلَّ خَطِيئَةٍ»، فَقَالَ جِبْرِيلُ إِلَّا الدَّيْنَ، فَقَالَ رَسُولُ اللهِ ﷺ: «إِلَّا الدَّيْنَ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ كَعْبِ ابْنِ عُجْرَةَ، وجابِرٍ، وأَبِي هُرَيْرَةَ، وأَبِي قَتَادَةَ. وهٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ أَبِي بَكْرٍ إِلَّا مِنْ حَدِيثِ هٰذَا الشَّيْخِ.

did not know it. He said: "I think that he intended the *Hadīth* of Humaid, from Anas, from the Prophet ﷺ that he said: 'There is none from the people of Paradise who would like to return to the world except for the martyr.'"

قَالَ: وسَأَلْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنْ هٰذَا الحَدِيثِ فَلَمْ يَعْرِفْهُ، وقَالَ أُرَىٰ أَنَّهُ أَرادَ حَدِيثَ حُمَيْدٍ عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «لَيْسَ أَحَدٌ مِنْ أَهْلِ الْجَنَّةِ يَسُرُّهُ أَنْ يَرْجِعَ إِلى الدُّنْيَا إِلَّا الشَّهِيدُ».

تخريج: [صحيح] سنده ضعيف وللحديث شواهد عند مسلم، ح:١٨٨٦/١١٩، ١٢٠ وغيره
* وفي الباب عن كعب بن عجرة [لم أجده] وجابر [البخاري، ح:٤٠٤٦ ومسلم، ح:١٨٩٩ وأحمد:٣/ ٣٢٥، ٣٥٢، ٣٦٧، ٣٧٣ وأبي هريرة [ابن ماجه، ح:٢٧٩٨] وأبي قتادة [يأتي: ١٧١٢].

Comments:

Although the *Hadīth* from this chain is not authentic; from another chain it is correct and sound, which shows that even an act as exceptionally meritorious as *Jihād* cannot wipe off the violations of the rights of men. Yet, if the dying man had the sincere intention to pay back the debt, but could not because of his extreme penury, then Allāh will do it on his behalf. (See *Takmilat Fath Al-Mal'*, v.3, p.413).

1641. Ka'b bin Mālik narrated from his father that the Messenger of Allāh ﷺ said: "The souls of the martyrs are in green birds, suspended from the fruit of Paradise, or the trees of Paradise." ***(Da'īf)***

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٦٤١ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينارٍ، عَنِ الزُّهْرِيِّ، عَنِ ابْنِ كَعْبِ بْنِ مَالِكٍ، عَنْ أَبِيهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِنَّ أَرْوَاحَ الشُّهَدَاءِ في طَيْرٍ خُضْرٍ تَعْلُقُ مِنْ ثَمَرَةِ الْجَنَّةِ أَوْ شَجَرِ الْجَنَّةِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الزهد، باب ذكر القبر والبلى، ح:٤٢٧١ والنسائي: ٤/ ١٠٨، ح:٢٠٧٥ من حديث الزهري به وشيخ الزهري: عبدالرحمن بن عبدالله بن كعب، لم يسمع هذا الحديث من جده، راجع النهاية بتحقيقي، ح:١٦٣٧ وصححه ابن حبان، ح:٧٣٤ وهو في الموطأ: ١/ ٢٤٠ ح٥٦٩ وله شاهد عند أحمد:٦/ ٤٢٤، ٤٢٥، ح:٢٧٩٣١ سنده ضعيف.

Comments:

Martyrs whose souls are prevented from entering Paradise on account of their unpaid debts or some other major sin, are lodged in the bellies of green birds and are free to go anywhere inside Paradise. They are also free to take their resort in the lamps suspended from the Mighty Throne. (For details regarding the sojourns of the souls, see *Kitāb Ar-Rūh* by Imām Ibn Qayyim. pp.143-145).

1642. Abū Hurairah narrated that the Messenger of Allāh ﷺ said, "I was shown the first of (every) three to enter Paradise: A martyr, an *'Afīf*,[1] who is a *Muta'affif*,[2] and a slave who perfected his worship of Allāh, and was sincere to his masters." (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*.

١٦٤٢ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عُثْمَانُ بْنُ عُمَرَ: أَخْبَرَنَا عَلِيُّ بْنُ الْمُبَارَكِ عَنْ يَحْيى بْنِ أَبِي كَثِيرٍ، عَنْ عَامِرٍ الْعُقَيْلِيِّ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «عُرِضَ عَلَيَّ أَوَّلُ ثَلَاثَةٍ يَدْخُلُونَ الْجَنَّةَ: شَهِيدٌ، وَعَفِيفٌ مُتَعَفِّفٌ، وَعَبْدٌ أَحْسَنَ عِبَادَةَ اللهِ وَنَصَحَ لِمَوَالِيهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: [إسناده حسن] وأخرجه أحمد: ٢/ ٤٧٩ من حديث علي بن المبارك به وصححه ابن خزيمة وابن حبان، ح: ١٢٠٣، ١٥٦١ وغيرهما، يحيى بن أبي كثير صرح بالسماع عند الحاكم (١/ ٣٨٧).

Comments:

The first person chosen (from amongst the first batch of three) for admittance into Paradise was a martyr. This shows what the exalted rank a martyr enjoys before Allāh.

1643. Anas narrated that the Prophet ﷺ said, "There is no person who dies having good (prepared for him) with Allāh, who wishes to return to the world, and to have the world and all that it contains, except for the martyr because of what he knows about the virtue of martyrdom. For, indeed he loves to return to the world so that he may be killed another time." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

[Ibn Abī 'Umar said: "Sufyān bin 'Uyainah said: "Amr bin Dīnār was older than Az-Zuhrī.'"][3]

١٦٤٣ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: أَخْبَرَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «مَا مِنْ عَبْدٍ يَمُوتُ لَهُ عِنْدَ اللهِ خَيْرٌ يُحِبُّ أَنْ يَرْجِعَ إِلَى الدُّنْيَا، وَأَنَّ لَهُ الدُّنْيَا وما فِيها، إِلَّا الشَّهِيدُ لِمَا يَرَى مِنْ فَضْلِ الشَّهادَةِ، فَإِنَّهُ يُحِبُّ أَنْ يَرْجِعَ إِلَى الدُّنْيَا فَيُقْتَلَ مَرَّةً أُخْرَى».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [قَالَ ابْنُ أَبِي عُمَرَ: قَالَ سُفْيَانُ بْنُ عُيَيْنَةَ: كَانَ عَمْرو بْنُ دِينَارٍ أَسَنَّ مِنَ الزُّهْرِيِّ].

[1] The one who avoids that which is prohibited. See *Tuhfat Al-Ahwadhī*.

[2] The one who refrains from asking, being content with the basic from seeking the better food or clothing. And it is said: The one who refrains from that which is not befitting for him, being patient in opposing his self and its desires. See *Tuhfat Al-Ahwadhī*.

[3] 'Amr bin Dīnār appears in no. 1641 reporting from Az-Zuhrī.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب الحور العين وصفتهن، ح: ٢٧٩٥ ومسلم، ح: ١٨٧٧ من حديث حميد الطويل به.

Comments:

A place in Paradise to a person shall, in his sight, be a favor worth more than having the world and all that it contains. That is why no one in Paradise would ever like to go back to the world. The martyr, however, immensely pleased as he would be with the favors granted to him by Allāh in Paradise, would wish to be given another chance to go back to the world and once again lay down his life in the cause of Allāh, in order to secure even greater status in Paradise.

Chapter 14. What Has Been Related About The Excellence Of Martyrs With Allāh

(المعجم ١٤) - بَابُ مَا جَاءَ فِي فَضْلِ الشُّهَدَاءِ عِنْدَ اللهِ (التحفة ١٤)

1644. Faḍālah bin 'Ubaid narrated that he heard 'Umar bin Al-Khaṭṭāb saying: "I heard the Messenger of Allāh ﷺ saying: 'The martyrs are four: A believing man whose faith is good, he meets the enemy and proves faithful to Allāh until he is killed. That is the one to whom the people will raise up their eyes like this on the Day of Judgement' and he raised his head until his *Qalansūwah* fell – [he said:] I do not know if it was 'Umar's *Qalansūwah* or the *Qalansūwah* of the Prophet ﷺ that fell – he said: 'And a believing man whose faith is good (but not as brave as the first), he meets the enemy, but due to cowardice, it only appears that he was struck with a thorn of an acacia tree when an unexpected arrow comes to him, yet it kills him. He is among the second level. And a believing man who has mixed a righteous deed with another evil one, he meets his enemy and proves faithful to Allāh until he is killed. This one is in the

١٦٤٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ لَهِيعَةَ عَنْ عَطَاءِ بْنِ دِينَارٍ، عَنْ أَبِي يَزِيدَ الْخَوْلَانِيِّ: أَنَّهُ سَمِعَ فَضَالَةَ بْنَ عُبَيْدٍ يَقُولُ: سَمِعْتُ عُمَرَ ابْنَ الْخَطَّابِ يَقُولُ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «الشُّهَدَاءُ أَرْبَعَةٌ: رَجُلٌ مُؤْمِنٌ جَيِّدُ الْإِيمَانِ لَقِيَ الْعَدُوَّ فَصَدَقَ اللهَ حَتَّىٰ قُتِلَ، فَذَاكَ الَّذِي يَرْفَعُ النَّاسُ إِلَيْهِ أَعْيُنَهُمْ يَوْمَ الْقِيَامَةِ هٰكَذَا» وَرَفَعَ رَأْسَهُ حَتَّى وَقَعَتْ قَلَنْسُوَتُهُ، - [قَالَ:] فَلَا أَدْرِي قَلَنْسُوَةَ عُمَرَ أَرَادَ أَمْ قَلَنْسُوَةَ النَّبِيِّ ﷺ - قَالَ: «وَرَجُلٌ مُؤْمِنٌ جَيِّدُ الْإِيمَانِ لَقِيَ الْعَدُوَّ فَكَأَنَّمَا ضُرِبَ جِلْدُهُ بِشَوْكِ طَلْحٍ مِنَ الْجُبْنِ أَتَاهُ سَهْمٌ غَرْبٌ فَقَتَلَهُ، فَهُوَ فِي الدَّرَجَةِ الثَّانِيَةِ، وَرَجُلٌ مُؤْمِنٌ خَلَطَ عَمَلًا صَالِحًا وآخَرَ سَيِّئًا لَقِيَ الْعَدُوَّ فَصَدَقَ اللهَ حَتَّى قُتِلَ فَذَاكَ فِي الدَّرَجَةِ الثَّالِثَةِ، وَرَجُلٌ مُؤْمِنٌ أَسْرَفَ عَلَى نَفْسِهِ لَقِيَ الْعَدُوَّ فَصَدَقَ اللهَ حَتَّى قُتِلَ، فَذَاكَ فِي الدَّرَجَةِ الرَّابِعَةِ».

third level. And a believing man who wasted himself (in wrongdoing), he meets the enemy and proves faithful to Allāh until he is killed. This one is in the fourth level.'" ***(Da'īf)***

[Abū 'Eīsā said:] This Ḥadīth is *Ḥasan Gharīb*, it is not known except as a narration of 'Aṭā' bin Dīnār.

He said: I heard Muḥammad saying: "Sa'eed bin Abī Ayyūb reported this Ḥadīth from 'Aṭā' bin Dīnār – from some Shaikhs of Khawlān – and he did not mention 'from Abū Yazīd' in it." And he said: "Aṭā' bin Dīnār; there is no harm in him."

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا يُعْرَفُ إِلَّا مِنْ حَدِيثِ عَطَاءِ بْنِ دِينَارٍ [قَالَ:] سَمِعْتُ مُحَمَّدًا يَقُولُ: قَدْ رَوَى سَعِيدُ بْنُ أَبِي أَيُّوبَ هٰذَا الحَدِيثَ عَنْ عَطَاءِ ابْنِ دِينَارٍ - [وقَالَ] - عَنْ أَشْيَاخٍ مِنْ خَوْلَانَ ولَمْ يَذْكُرْ فِيهِ عَنْ أَبِي يَزِيدَ. وقَالَ: عَطَاءُ بْنُ دِينارٍ لَيْسَ بِهِ بَأْسٌ.

تخريج: [إسناده ضعيف] وأخرجه ابن المبارك في الجهاد، ح:١٢٦ وأحمد:١/٢٢ من حديث ابن لهيعة به وأبويزيد الخولاني لم يوثقه غير الترمذي فيما أعلم فهو "مجهول" (تقريب) فالسند ضعيف من أجله.

Comments:

The Ḥadīth indicates that all the four martyrs are equal in faith. Yet the first one is courageous while the second is not as courageous as the first. Being a little below the first in rank, he is in the second level. The third and fourth are, likewise, equal in faith. However, the fourth has more wrongdoings in his account; therefore he ranks fourth in status.

Chapter 15. What Has Been Related About Naval Battles

(المعجم ١٥) - بَابُ مَا جَاءَ فِي غَزْوِ الْبَحْرِ (التحفة ١٥)

1645. Isḥāq bin 'Abdullāh bin Abī Ṭalḥah narrated that he heard Anas [bin Mālik] saying: "The Messenger of Allāh ﷺ used to visit Umm Ḥarām bint Milḥān, who would offer him meals. Umm Ḥarām was the wife of 'Ubādah bin Aṣ-Ṣāmiṭ. Once the Messenger of Allāh ﷺ visited her and she provide him with some food and started inspecting his head for lice. Then the Messenger of Allāh ﷺ

١٦٤٥ - حَدَّثَنَا إِسْحَاقُ بْنُ مُوسَى الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنْ إِسْحَاقَ بْنِ عَبْدِ اللهِ بْنِ أَبِي طَلْحَةَ، عَنْ أَنَسٍ [ابْنِ مالِكٍ] أَنَّهُ سَمِعَهُ يَقُولُ: كانَ رَسُولُ اللهِ ﷺ يَدْخُلُ عَلَى أُمِّ حَرَامٍ بِنْتِ مِلْحَانَ فَتُطْعِمُهُ، وكانَتْ أُمُّ حَرَامٍ تَحْتَ عُبَادَةَ بْنِ الصَّامِتِ، فَدَخَلَ عَلَيْهَا رَسُولُ اللهِ ﷺ يَوْمًا فَأَطْعَمَتْهُ وَحَبَسَتْهُ تَفْلِي رَأْسَهُ، فَنَامَ رَسُولُ اللهِ

ﷺ ثُمَّ اسْتَيْقَظَ وهُوَ يَضْحَكُ، قَالَتْ: فَقُلْتُ ما يُضْحِكُكَ يَا رَسُولَ اللهِ؟ قَالَ: «نَاسٌ مِنْ أُمَّتِي عُرِضُوا عَلَيَّ غُزَاةً في سَبِيلِ اللهِ يَرْكَبُونَ ثَبَجَ هٰذَا البَحْرِ مُلُوكٌ عَلَى الْأَسِرَّةِ، أَوْ مِثْلَ المُلُوكِ عَلَى الْأَسِرَّةِ». قُلْتُ: يَا رَسُولَ اللهِ، ادْعُ اللهَ أَنْ يَجْعَلَنِي مِنْهُمْ فَدَعَا لَهَا، ثُمَّ وَضَعَ رَأْسَهُ فَنَامَ ثُمَّ اسْتَيْقَظَ وهُوَ يَضْحَكُ، قَالَتْ: فَقُلْتُ لَهُ ما يُضْحِكُكَ يَا رَسُولَ اللهِ؟ قَالَ: «نَاسٌ مِنْ أُمَّتِي عُرِضُوا عَلَيَّ غُزَاةً في سَبِيلِ اللهِ» نَحْوَ ما قَالَ في الْأَوَّلِ. قَالَتْ: فَقُلْتُ يَا رَسُولَ اللهِ ادْعُ اللهَ أَنْ يَجْعَلَنِي مِنْهُمْ، قَالَ: «أَنْتِ مِنَ الْأَوَّلِينَ» قَالَ: فَرَكِبَتْ أُمُّ حَرَامٍ البَحْرَ في زَمَانِ مُعَاوِيَةَ بْنِ أَبِي سُفْيَانَ فَصُرِعَتْ عَنْ دَابَّتِهَا حِينَ خَرَجَتْ مِنَ البَحْرِ فَهَلَكَتْ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وأُمُّ حَرَامٍ بِنْتُ مِلْحَانَ هِيَ أُخْتُ أُمِّ سُلَيْمٍ، وهِيَ خَالَةُ أَنَسِ بْنِ مَالِكٍ.

slept, and afterwards he awoke smiling.

She said: 'I said: "What causes you to smile, O the Messenger of Allāh ﷺ?" He said: "Some of my followers who were displayed before me (in a dream) as fighters in Allāh's cause, riding on a ship on this ocean who were kings upon thrones, or like kings upon thrones." I said: "O Messenger of Allāh! Supplicate to Allāh to make me among them."' So he supplicated for her. Then he lay down his head to sleep. Then he woke up and he was smiling. She said: 'So I said to him: "What causes you to smile, O the Messenger of Allāh ﷺ?" He said: "Some of my followers who were displayed before me (in a dream) as fighters in Allāh's cause," and he said similar to what he said earlier. She said: 'I said: "O Messenger of Allāh! Supplicate to Allāh to make me among them." He said: "You are from the earlier ones."' He said: "So Umm Ḥarām rode on the sea during the time of Mu'āwiyah bin Abī Sufyān. She was thrown from her riding animal after she arrived from the ocean voyage, and she died." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Umm Ḥarām bint Milḥān is the daughter of Umm Sulaim, the maternal aunt of Anas bin Mālik.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب الدعاء بالجهاد والشهادة للرجال والنساء، ح:٢٧٨٨، ٢٧٨٩ ومسلم، ح:١٩١٢ من حديث مالك به وهو في الموطأ:٢/ ٤٦٤، ٤٦٥.

Chapter 16. What Has Been Related About One Who Fights For Show And For Wordly Matters

(المعجم ١٦) - بَابُ مَا جَاءَ فِيمَنْ يُقَاتِلُ رِيَاءً وَلِلدُّنْيَا (التحفة ١٦)

1646. Abū Mūsā narrated: "The Messenger of Allāh ﷺ was asked about a man who fights out of bravery, one who fights out of protection (for himself or others), and one who fought to be seen. Which of them is in the cause of Allāh? He said: 'Whoever fought so that the Word of Allāh is supreme, then he is in Allāh's cause.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is something on this topic from 'Umar. This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٤٦ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ شَقِيقِ بْنِ سَلَمَةَ، عَنْ أَبِي مُوسَى قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ عَنِ الرَّجُلِ يُقَاتِلُ شَجَاعَةً وَيُقَاتِلُ حَمِيَّةً وَيُقَاتِلُ رِيَاءً، فَأَيُّ ذٰلِكَ فِي سَبِيلِ اللهِ؟ قَالَ: «مَنْ قَاتَلَ لِتَكُونَ كَلِمَةُ اللهِ هِيَ الْعُلْيَا فَهُوَ فِي سَبِيلِ اللهِ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عُمَرَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، مسلم، الإمارة، باب من قاتل لتكون كلمة الله هي العليا فهو في سبيل الله، ح:١٩٠٤ من حديث أبي معاوية الضرير والبخاري، ح:٧٤٥٨ من حديث الأعمش به * وفي الباب عن عمر [يأتي: ١٦٤٧].

Comments:

A person's going to war could be for several reasons: hope of getting the spoils of war; show of one's valour and bravery; nationalistic motives; desire for revenge; search for personal glory; or for establishing the supremacy of Allāh's Word. The Prophet ﷺ explained that only the person fighting for the supremacy of Allāh's Word is fighting in the cause of Allāh.

1647. 'Umar bin Al-Khaṭṭāb narrated that the Messenger of Allāh ﷺ said: "Deeds are but with intentions, and for the man is only what he intended. So one whose emigration was to Allāh and His Messenger, then his emigration was to Allāh and His Messenger. And one whose emigration was to the world, to attain some of it, or a woman, to marry her, then his emigration was to what he emigrated."(*Ṣaḥīḥ*)

١٦٤٧ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ مُحَمَّدِ بْنِ إِبْرَاهِيمَ، عَنْ عَلْقَمَةَ بْنِ وَقَّاصٍ اللَّيْثِيِّ، عَنْ عُمَرَ بْنِ الْخَطَّابِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّمَا الْأَعْمَالُ بِالنِّيَّةِ، وَإِنَّمَا لِامْرِئٍ مَا نَوَى، فَمَنْ كَانَتْ هِجْرَتُهُ إِلَى اللهِ وإِلَى رَسُولِهِ فَهِجْرَتُهُ إِلَى اللهِ وَإِلَىٰ رَسُولِهِ، ومَنْ كانَتْ هِجْرَتُهُ إِلَى دُنْيَا يُصِيبُهَا أَوْ امْرَأَةٍ يَتَزَوَّجُهَا فَهِجْرَتُهُ إِلَى مَا هَاجَرَ إِلَيْهِ».

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. Mālik bin Anas, Sufyān Ath-Thawrī and more than one of the *A'immah* narrated this *Hadīth* from Yahya bin Sa'eed. And we do not know of it except as a narration of Yahya bin Sa'eed [Al-Ansārī. 'Abdur-Rahmān bin Mahdī said: "It is necessary that we put this *Hadīth* in every chapter."]

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وقَدْ رَوَى مالِكُ بْنُ أَنَسٍ وسُفْيَانُ الثَّوْرِيُّ وَغَيْرُ واحِدٍ مِنَ الْأَئِمَّةِ هٰذَا عَنْ يَحْيَى بْنِ سَعِيدٍ ولَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ يَحْيَى بْنِ سَعِيدٍ [الْأَنْصَارِيِّ قَالَ عَبْدُالرَّحْمٰنِ بْنُ مَهْدِيٍّ: يَنْبَغِي أَنْ نَضَعَ هٰذَا الحَدِيثَ فِي كُلِّ بَابٍ].

تخريج: متفق عليه، وأخرجه مسلم، الإمارة، باب قوله ﷺ: "إنما الأعمال بالنية" وأنه يدخل فيه الغزو وغيره من الأعمال، ح:١٩٠٧ عن محمد بن المثنى والبخاري، ح:٦٦٨٩ من حديث عبدالوهاب الثقفي به.

Comments:

The *Hadīth* is explicit on the point that, in order to decide the right of an action from wrong or evaluate its acceptability, the motive or incentive that prompted the man to do it, is considered.

Chapter 17. What Has Been Related About Going Out In The Morning And The Afternoon In The Cause Of Allāh

(المعجم ١٧) - بَابُ مَا جَاءَ فِي الْغُدُوِّ وَالرَّوَاحِ فِي سَبِيلِ اللهِ (التحفة ١٧)

1648. Sahl bin Sa'd As-Sā'idī narrated that the Messenger of Allāh ﷺ said: "Going out in the morning in the cause of Allāh is better than the world and what is in it. And the place (the size) of a whip in Paradise is better than the world and what is in it." (***Sahīh***)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Hurairah, Ibn 'Abbās, Abū Ayyūb, and Anas.

This *Hadīth* is *Hasan Sahīh*.

١٦٤٨ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا العَطَّافُ بْنُ خالِدٍ المَخْزُومِيُّ عَنْ أَبِي حَازِمٍ، عَنْ سَهْلِ ابْنِ سَعْدٍ السَّاعِدِيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «غَدْوَةٌ فِي سَبِيلِ اللهِ خَيْرٌ مِنَ الدُّنْيَا ومَا فِيها، ومَوضِعُ سَوْطٍ في الجَنَّةِ خَيْرٌ مِنَ الدُّنْيَا ومَا فِيهَا».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وابْنِ عَبَّاسٍ، وأَبِي أَيُّوبَ، وأَنَسٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه ابن ماجه، الجهاد، باب فضل الغدوة والروحة في سبيل الله عزوجل، ح:٢٧٥٦ من حديث أبي حازم به ورواه البخاري، ح:٢٧٩٤ ومسلم، ح:١٨٨١ من طرق عن أبي حازم به * وفي الباب عن أبي هريرة [يأتي:١٦٤٩] وابن عباس [يأتي:١٦٤٩] وأبي أيوب [مسلم، ح:١٨٨٣] وأنس [يأتي:١٦٥١].

Comments:

Jihād is such a prized deed before Allāh, that going out in the morning or evening just for a little while in the cause of Allāh has merit that nothing, not even giving the whole world in charity, shall equal it in merit. Similarly, even getting the narrowest space for one's abode in Paradise is worth more than the entire world and all that it contains.

1649. Abū Hurairah and Ibn 'Abbās narrated that the Prophet ﷺ said: "Going out in the morning in the cause of Allāh, or in the afternoon, is better than the world and what is in it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*.

[The Abū Ḥāzim who reported from Sahl bin Sa'd is Abū Ḥāzim Az-Zāhid. He is from Al-Madīnah, and his name is Salamah bin Dīnār.] While [this] Abū Ḥāzim who reported from Abū Hurairah is [Abu Ḥāzim Al-Ashja'ī] Al-Kūfī, whose name is Salmān, and he is the freed slave of 'Azzah Al-Ashja'iyyah.

١٦٤٩ - حَدَّثَنَا أَبُو سَعِيدٍ الأَشَجُّ: حَدَّثَنَا أَبُو خَالِدٍ الأَحْمَرُ عَنِ ابْنِ عَجْلَانَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ. والْحَجَّاجُ عَنِ الحَكَمِ عَنْ مِقْسَمٍ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ قَالَ: «غَدْوَةٌ في سَبِيلِ اللهِ أَوْرَوْحَةٌ خَيْرٌ مِنَ الدُّنْيَا ومَا فِيهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. [وأَبُو حَازِمٍ الَّذي رَوَى عَنْ سَهْلِ ابْنِ سَعْدٍ هُوَ أَبُو حازِمٍ الزَّاهِدُ وهُوَ مَدَنِيٌّ واسْمُهُ سَلَمَةُ بْنُ دِينَارٍ] وأَبُو حَازِمٍ [هٰذَا] الَّذي رَوَى عَنْ أَبِي هُرَيْرَةَ هُوَ [أَبُو حَازِمٍ الأَشْجَعِيُّ] الكُوفِيُّ [و]اسْمُهُ سَلْمَانُ وهُوَ مَوْلَى عَزَّةَ الأَشْجَعِيَّةِ.

تخريج: [**صحيح**] وأخرجه ابن ماجه، أيضًا، ح:٢٧٥٥ من حديث أبي خالد الأحمر به وللحديث شواهد كثيرة منها الحديث السابق.

Comments:

Going out even for a short period of time, whether in the morning or afternoon, in the cause of Allāh is better than the world and all that it contains. The words "morning" and "afternoon" are used to describe the general practice of the people who set out on their journeys at these hours. It does not mean that going out at any other time of the day or night would not earn a reward from Allāh.

1650. Abū Hurairah narrated: "A man from the Companions of the Prophet ﷺ passed by a ravine containing a small spring of thirst quenching water, so he was amazed by how pleasant it was. So he said: 'I should leave the people and stay

١٦٥٠ - حَدَّثَنَا عُبَيْدُ بْنُ أَسْبَاطَ بْنِ مُحَمَّدٍ [الْقُرَشِيُّ الْكُوفِيُّ]: حَدَّثَنَا أَبِي عَنْ هِشَامِ بْنِ سَعْدٍ، عَنْ سَعِيدِ بْنِ أَبِي هِلَالٍ، عَنْ أَبِي ذُبَابٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: مَرَّ رَجُلٌ مِنْ

in this ravine. But I will not do it until I seek permission from the Messenger of Allāh ﷺ.' So he mentioned that to the Messenger of Allāh ﷺ and he said: 'Do not do so. For indeed one of you standing in the cause of Allāh is more virtuous than his *Ṣalāt* in his house for seventy years. Do you not love that Allāh forgive your sins and admit you into Paradise? Then fight in the cause of Allāh, for whoever fights in Allāh's cause for the time it takes for two milkings of a camel, then Paradise is obligatory for him.'" (***Hasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

أَصْحَابِ النَّبِيِّ ﷺ بِشِعْبٍ فِيهِ عُيَيْنَةٌ مِنْ مَاءٍ عَذْبَةٌ فَأَعْجَبَتْهُ لِطِيبِهَا، فَقَالَ: لَوِ اعْتَزَلْتُ النَّاسَ فَأَقَمْتُ فِي هٰذَا الشِّعْبِ وَلَنْ أَفْعَلَ حَتَّى أَسْتَأْذِنَ رَسُولَ اللهِ ﷺ، فَذَكَرَ ذٰلِكَ لِرَسُولِ اللهِ ﷺ فَقَالَ: «لَا تَفْعَلْ فَإِنَّ مقَامَ أَحَدِكُمْ فِي سَبيلِ اللهِ أَفْضَلُ مِنْ صَلَاتِهِ فِي بَيْتِهِ سَبْعِينَ عامًا، أَلَا تُحِبُّونَ أَنْ يَغْفِرَ اللهُ لَكُمْ، ويُدْخِلَكُمُ الْجَنَّةَ؟ اغْزُوا فِي سَبِيلِ اللهِ مَنْ قَاتَلَ فِي سَبِيلِ اللهِ فُوَاقَ نَاقَةٍ وَجَبَتْ لَهُ الْجَنَّةُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: [إسناده حسن] وأخرجه أحمد: ٢/٤٤٦، ٥٢٤ من حديث هشام بن سعد به وصححه عبدالغني المقدسي والحاكم على شرط مسلم: ٢/٦٨ ووافقه الذهبي وللحديث شواهد.

Comments:

The way to milk a she-camel is that they milk her for a while then give her a break so that its foal sucks her and the milk comes down again. The time between the two milkings is known as *Fuwāq-u-Nāqah* (literally, hiccups of the she-camel). It means that even a little period of time spent in *Jihād* is more meritorious than the voluntary *Salāt* of seventy years in one's house. It may be mentioned here that it is only the voluntary *Salāt* that is performed at home.

1651. Anas narrated that the Messenger of Allāh ﷺ said: "To go out in the cause of Allāh in the morning, or the afternoon, is better than the world and what is in it. And the space that a bow of one of you – or the space that his hand – would occupy in Paradise is better than the world and what is in it. And if a woman among the women inhabiting Paradise were to appear to the people of the earth, then she would illuminate what is between

١٦٥١ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَغَدْوَةٌ فِي سَبِيلِ اللهِ أَوْ رَوْحَةٌ خَيْرٌ مِنَ الدُّنْيَا ومَا فِيهَا، ولَقَابُ قَوْسِ أَحَدِكُمْ أَوْ مَوضِعُ يَدِهِ فِي الْجَنَّةِ خَيْرٌ مِنَ الدُّنْيَا ومَا فِيهَا، وَلَوْ أَنَّ امْرَأَةً مِنْ نِسَاءِ أَهْلِ الْجَنَّةِ اطَّلَعَتْ إِلَى الْأَرْضِ لَأَضَاءَتْ ما بَيْنَهُمَا، ولَمَلَأَتْ مَا بَيْنَهُمَا رِيحًا، ولَنَصِيفُهَا عَلَى رَأْسِهَا خَيْرٌ مِنَ الدُّنْيَا ومَا فِيهَا».

them (the heavens and the earth), and a pleasant scent would fill up what is between them, and the scarf on her head is better than the world and what is in it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: متفق عليه، أخرجه البخاري، الرقاق، باب صفة الجنة والنار، ح:٦٥٦٧، ٦٥٦٨ من حديث إسماعيل بن جعفر به رواه مسلم، ح: ١٨٨٠ من حديث أنس به مختصرًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ صَحِيحٌ.

Comments:

The *Ḥadīth* tells us that if a man of faith separates himself from his home and the women of the house even for a small period of time in Allāh's cause, he will be admitted to Paradise whose smallest space shall be better than the entire world and all that is in it.

Chapter 18. What Has Been Related About Who Is The Best Of People

(المعجم ١٨) - بَابُ مَا جَاءَ أَيُّ النَّاسِ خَيْرٌ (التحفة ١٨)

1652. Ibn 'Abbās narrated that the Prophet ﷺ said: "Shall I not inform you of the best of the people? A man who takes hold of the reins of his horse in Allāh's cause. Shall I not inform you of the one who comes after him? The man who secludes himself from the people with a small group of sheep of his, thereby fulfilling Allāh's rights. Shall I not inform you about the worst of the people? A man who is asked by (the Name of) Allāh, but not given by Him."[1] (*Ḥasan*)

١٦٥٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ لَهِيعَةَ عَنْ بُكَيْرِ [ابْنِ عَبْدِاللهِ] بْنِ الأَشَجِّ، عَنْ عَطَاءِ ابْنِ يَسَارٍ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «أَلَا أُخْبِرُكُمْ بِخَيْرِ النَّاسِ؟ رَجُلٌ مُمْسِكٌ بِعَنَانِ فَرَسِهِ فِي سَبِيلِ اللهِ، أَلَا أُخْبِرُكُمْ بِالَّذِي يَتْلُوهُ؟ رَجُلٌ مُعْتَزِلٌ فِي غُنَيْمَةٍ لَهُ يُؤَدِّي حَقَّ اللهِ فِيهَا، أَلَا أُخْبِرُكُمْ بِشَرِّ النَّاسِ؟ رَجُلٌ يُسْأَلُ بِاللهِ وَلَا يُعْطِي بِهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. وَيُرْوَى هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ.

[1] This narration is recorded by Aḥmad (1:237 and others), An-Nasā'ī (no. 2570), Ibn Ḥibbān (no. 604/1594 - *Mawārid*) and others. See *Aṣ-Ṣaḥīḥah* no.255. The last person: "A man who is asked by (the Name of) Allāh, but not give by Him" is also recited, alternatively with the meaning: "A man who asks..." many of the commentaries consider that to be more correct. Here, it has been translated according to the text.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb* from this route. This *Hadīth* has been reported through other routes from Ibn 'Abbās, from the Prophet ﷺ.

تخريج: [حسن] وأخرجه النسائي: ٥/ ٨٣، ح: ٢٥٧٠ (الزكاة، باب من يسأل بالله عز وجل ولا يعطي به) من حديث عطاء بن يسار به ورواه عمرو بن الحارث عن بكير بن عبدالله به عند ابن حبان، ح: ١٥٩٤ (موارد).

Comments:

The best of all deeds is to keep oneself and one's horses ready for the call of *Jihād*, and the best of all men is the one who fulfills this requirement. If prevailing conditions become so unfavorable as to make it impossible for a person to live in the midst of the people and keep one's faith intact, and there is every likelihood that, far from reforming others, even his own adherence to faith is threatened, the second best thing after *Jihād* for him to do is to take to a life of seclusion with his small herd of sheep.

Chapter 19. What Has Been Related About One Who Asks For Martyrdom

(المعجم ١٩) - بَابُ مَا جَاءَ فِيمَنْ سَأَلَ الشَّهَادَةَ (التحفة ١٩)

1653. Sahl bin Abī Umāmah bin Sahl bin Hunaif narrated from his father, from his grandfather, that the Prophet ﷺ said: "Whoever asks Allāh for martyrdom sincerely from his heart, Allāh will grant the status of martydom for him, even if he were to die in his bed." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb* as a narration of Sahl bin Hunaif. We do not know of it except from the report of 'Abdur-Rahmān bin Shuraih. 'Abdullāh bin Sālih reported it from 'Abdur-Rahmān bin Shuraih, and 'Abdur-Rahmān bin Shuraih's *Kunyah* is Abū Shuraih, and he is from Iskandarānī.

There is something on this topic from Mu'ādh bin Jabal.

١٦٥٣ - حَدَّثَنَا مُحَمَّدُ بْنُ سَهْلِ بْنِ عَسْكَرٍ [الْبَغْدَادِيُّ]: حَدَّثَنَا الْقَاسِمُ بْنُ كَثِيرٍ [الْمِصْرِيُّ]: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ شُرَيْحٍ أَنَّهُ سَمِعَ سَهْلَ بْنَ أَبِي أُمَامَةَ بْنِ سَهْلِ بْنِ حُنَيْفٍ يُحَدِّثُ عَنْ أَبِيهِ، عَنْ جَدِّهِ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ سَأَلَ اللهَ الشَّهَادَةَ مِنْ قَلْبِهِ صَادِقًا بَلَّغَهُ اللهُ مَنَازِلَ الشُّهَدَاءِ وإِنْ مَاتَ عَلَى فِرَاشِهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ سَهْلِ بْنِ حُنَيْفٍ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبْدِ الرَّحْمٰنِ بْنِ شُرَيْحٍ، وقَدْ رَوَاهُ عَبْدُ اللهِ بْنُ صَالِحٍ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ شُرَيْحٍ. وعَبْدُ الرَّحْمٰنِ بْنُ شُرَيْحٍ يُكْنَى أَبَا شُرَيْحٍ وهُوَ إِسْكَنْدَرَانِيٌّ.

وفِي الْبَابِ عَنْ مُعَاذِ بْنِ جَبَلٍ.

تخريج: وأخرجه مسلم، الإمارة، باب استحباب طلب الشهادة في سبيل الله تعالى، ح:١٩٠٩ من حديث عبدالرحمن بن شريح به * وفي الباب عن معاذ بن جبل [يأتي: ١٦٥٤].

1654. Mu'ādh bin Jabal narrated that the Prophet ﷺ said: "Whoever asks Allāh to be killed in His cause sincerely from his heart, Allāh shall give him the reward of martyrdom." (***Sahīh***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٥٤ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا ابْنُ جُرَيْجٍ عَنْ سُلَيْمَانَ بْنِ مُوسَى، عَنْ مَالِكِ بْنِ يُخَامِرَ السَّكْسَكِيِّ، عَنْ مُعَاذِ بْنِ جَبَلٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ سَأَلَ اللهَ الْقَتْلَ فِي سَبِيلِهِ صَادِقًا مِنْ قَلْبِهِ أَعْطَاهُ اللهُ أَجْرَ الشَّهِيدِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: **[إسناده صحيح]** وأخرجه النسائي: ٦/ ٢٥، ٢٦، ح: ٣١٤٣ (الجهاد، باب ثواب من قاتل في سبيل الله فواق ناقة) من حديث ابن جريج به مطولاً وصرح بالسماع.

Comments:

If a person sincerely desires to perform a virtuous deed but finds himself unable to do it, the sincerity of his resolve and the purity of his intention shall secure for him the reward of the intended deed, and he shall be reckoned among those who have actually performed it.

Chapter 20. What Has Been Related About The *Mujāhid*, The One Getting Married, And The *Mukātib*, And Allāh's Help For Them

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي الْمُجَاهِدِ وَالنَّاكِحِ وَالْمُكَاتَبِ وَعَوْنِ اللهِ إِيَّاهُمْ

(التحفة ٢٠)

1655. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "There are three for whom it is a right upon Allāh to help them: The *Mujāhid* in His cause, the *Mukātab* who intends to fulfill (the *Kitābah*), and the one getting married who intends chastity." (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

١٦٥٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنِ ابْنِ عَجْلَانَ، عَنْ سَعِيدٍ الْمَقْبُرِيِّ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «ثَلَاثَةٌ؛ حَقٌّ عَلَى اللهِ عَوْنُهُمْ: الْمُجَاهِدُ فِي سَبِيلِ اللهِ، وَالْمُكَاتَبُ الَّذِي يُرِيدُ الْأَدَاءَ، وَالنَّاكِحُ الَّذِي يُرِيدُ الْعَفَافَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

تخريج: **[إسناده حسن]** وأخرجه النسائي، الجهاد، باب فضل الروحة في سبيل الله عزوجل: ٦/ ١٥، ١٦، ح: ٢٢، ٣١ وابن ماجه، ح: ٢٥١٨ من حديث محمد بن عجلان به وصرح بالسماع عند أحمد: ٢/ ٤٣٧.

Comments:

It is Allāh who supports the endeavours of those who sincerely and earnestly wish and try to perform acts of virtue that are so demanding and difficult that no one can accomplish them without Allāh's special support.

Chapter 21. What Has Been Related About One Who Is Wounded In Allāh's Cause

(المعجم ٢١) - بَابُ مَا جَاءَ فِيمَنْ يُكْلَمُ فِي سَبِيلِ اللهِ (التحفة ٢١)

1656. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "None is wounded in Allāh's cause – and Allāh knows better about who has been injured in His cause – except that he will come on the Day of Resurection with his wound the color of blood but its scent will be the scent of musk." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. It has been reported through other routes from the Prophet ﷺ.

١٦٥٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ ابْنُ مُحَمَّدٍ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا يُكْلَمُ أَحَدٌ فِي سَبِيلِ اللهِ - واللهُ أَعْلَمُ بِمَنْ يُكْلَمُ فِي سَبِيلِهِ - إِلَّا جَاءَ يَوْمَ الْقِيَامَةِ اللَّوْنُ لَوْنُ الدَّمِ، والرِّيحُ رِيحُ الْمِسْكِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: وأخرجه مسلم، الإمارة، باب فضل الجهاد والخروج في سبيل الله، ح:١٨٧٦/١٠٧ من حديث سهيل به ورواه البخاري، ح:٢٨٠٣ من حديث أبي هريرة.

Comments:

On the Day of Resurrection, the color of the martyr's blood shall remain red for anyone to see, but the scent coming from it shall be the scent of musk — proving that it was shed in the cause of Allāh.

1657. Mu'ādh bin Jabal narrated that the Prophet ﷺ said: "Whoever fought in the cause of Allāh – a Muslim man – for the time it takes for two milkings of a camel, then Paradise is obligatory for him. And whoever suffered a wound in the cause of Allāh, or he suffers from an injury, then he will come on the Day of Resurrection while (his blood will be) more

١٦٥٧ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا ابْنُ جُرَيْجٍ عَنْ سُلَيْمَانَ بْنِ مُوسَى، عَنْ مالِكِ بْنِ يُخَامِرَ، عَنْ مُعَاذِ بْنِ جَبَلٍ عَنِ النَّبِيِّ ﷺ قَالَ: «مَنْ قَاتَلَ فِي سَبِيلِ اللهِ - مِنْ رَجُلٍ مُسْلِمٍ - فُوَاقَ نَاقَةٍ وَجَبَتْ لَهُ الْجَنَّةُ، ومَنْ جُرِحَ جُرْحًا فِي سَبِيلِ اللهِ أَوْ نُكِبَ نَكْبَةً فَإِنَّهَا تَجِيءُ يَوْمَ

copius than it ever was, its color the color of saffron, and its scent like that of musk." (*Ṣaḥīḥ*)

This *Ḥadīth* is *Ṣaḥīḥ*.

الْقِيَامَةِ كأغْزَرِ ما كانَتْ، لَوْنُهَا الزَّعْفَرَانُ ورِيحُهَا كالمِسْكِ»

هٰذَا حَدِيثٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وتقدم: ١٦٥٤ وهذا طرف منه، ورواه ابن ماجه، ح: ٢٧٩٢ من حديث ابن جريج به مختصرًا.

Chapter 22. Which Deed Is The Most Virtuous?

(المعجم ٢٢) - بَابُ مَا جَاءَ أَيُّ الْأَعْمَالِ أَفْضَلُ (التحفة ٢٢)

1658. Abū Hurairah, may Allāh be pleased with him, narrated: "The Messenger of Allāh ﷺ was asked: 'Which deed is the most virtuous? And which deed is the best?' He ﷺ said: 'Faith in Allāh and His Messenger.' It was said: 'Then what?' He said: '*Jihād* is the hump (the most prominent) of the deeds.' Then what O the Messenger of Allāh? He said: 'Then *Ḥajj Mabrūr*'"[1] (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, it has been reported through other routes from Abū Hurairah from the Prophet ﷺ.

١٦٥٨ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا عَبْدَةُ [ابْنُ سُلَيْمَانَ] عَنْ مُحَمَّدِ بْنِ عَمْرٍو: حَدَّثَنَا أَبُو سَلَمَةَ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُ قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ: أَيُّ الْأَعْمَالِ أَفْضَلُ وأَيُّ الْأَعْمَالِ خَيْرٌ؟ قَالَ: «إِيمَانٌ باللهِ ورَسُولِهِ»، قِيلَ: ثُمَّ أَيُّ شَيْءٍ؟ قَالَ: «الجهَادُ سَنَامُ العَمَلِ»، قِيلَ: ثُمَّ أَيُّ شَيْءٍ يَا رَسُولَ اللهِ؟ قَالَ: «ثُمَّ حَجٌّ مَبْرُورٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ قَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: [إسناده حسن] وأخرجه أحمد: ٢/ ٢٨٧ من حديث محمد بن عمرو الليثي به ورواه البخاري، ح: ٢٦ ومسلم، ح: ٨٣ من حديث أبي هريرة رضي الله عنه.

Chapter 23. What Has Been Mentioned About 'The Gates Of Paradise Are Under The Shadows Of The Swords'

(المعجم ٢٣) - بَابُ [مَا ذُكِرَ أَنَّ أَبْوَابَ الْجَنَّةِ تَحْتَ ظِلَالِ السُّيُوفِ] (التحفة ٢٣)

1659. Abū Bakr bin Abī Mūsā Al-Ash'arī narrated: "I heard my

١٦٥٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا جَعْفَرُ بْنُ سُلَيْمَانَ الضُّبَعِيُّ عَنْ أَبِي عِمْرَانَ الْجَوْنِيِّ،

[1] See no. 810.

عَنْ أَبِي بَكْرِ بْنِ أَبِي مُوسَى الْأَشْعَرِيِّ قَالَ: سَمِعْتُ أَبِي بِحَضْرَةِ الْعَدُوِّ يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ أَبْوَابَ الْجَنَّةِ تَحْتَ ظِلَالِ السُّيُوفِ»، فَقَالَ رَجُلٌ مِنَ الْقَوْمِ رَثُّ الْهَيْئَةِ: أَأَنْتَ سَمِعْتَ هٰذَا مِنْ رَسُولِ اللهِ ﷺ يَذْكُرُهُ؟ قَالَ: نَعَمْ، فَرَجَعَ إِلَى أَصْحَابِهِ فَقَالَ: أَقْرَأُ عَلَيْكُمُ السَّلَامَ، وَكَسَرَ جَفْنَ سَيْفِهِ فَضَرَبَ بِهِ حَتَّى قُتِلَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [صَحِيحٌ] غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ جَعْفَرِ بْنِ سُلَيْمَانَ [الضُّبَعِيِّ]. وَأَبُو عِمْرَانَ الْجَوْنِيُّ اسْمُهُ عَبْدُ الْمَلِكِ بْنُ حَبِيبٍ. وَأَبُو بَكْرِ بْنُ أَبِي مُوسَى قَالَ: أَحْمَدُ بْنُ حَنْبَلٍ هُوَ اسْمُهُ.

father saying in the presence of the enemy: 'The Messenger of Allāh ﷺ said: "Indeed, the gates of Paradise are under the shadows of the swords."' A man among the people with a ragged appearance said: 'Have you heard what you mentioned from the Messenger of Allāh ﷺ?' He said: 'Yes.' So he returned to his comrades and bid them *Salām* (farewell), broke the sheath of his sword, and began fighting with it until he was killed." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This Ḥadīth is [*Ṣaḥīḥ*] *Gharīb*. We do not know it except as a narration of Ja'far bin Sulaimān [Aḍ-Ḍuba'ī]. (One of the narrators) Abū 'Imrān Al-Jawnī's name is 'Abdul-Malik bin Ḥabīb. As for Abū Bakr bin Abī Mūsā, Aḥmad bin Ḥanbal said: "That is his name."

تخريج: وأخرجه مسلم، الإمارة، باب ثبوت الجنة للشهيد، ح:١٩٠٢ عن قتيبة به.

Comments:

The Ḥadīth tells us that one of the paths leading straight to Paradise is to take part in *Jihād* and confront the enemy fearlessly, under the shadow of swords and other weapons.

Chapter 24. What Has Been Related About Which Of The People Are Most Virtuous

(المعجم ٢٤) - بَابُ مَا جَاءَ أَيُّ النَّاسِ أَفْضَلُ (التحفة ٢٤)

١٦٦٠ - حَدَّثَنَا أَبُو عَمَّارٍ: حَدَّثَنَا الْوَلِيدُ ابْنُ مُسْلِمٍ عَنِ الْأَوْزَاعِيِّ: حَدَّثَنَا الزُّهْرِيُّ عَنْ عَطَاءِ بْنِ يَزِيدَ اللَّيْثِيِّ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ أَيُّ النَّاسِ أَفْضَلُ؟ قَالَ: «رَجُلٌ يُجَاهِدُ فِي سَبِيلِ اللهِ» قَالُوا: ثُمَّ مَنْ؟ قَالَ: «ثُمَّ مُؤْمِنٌ فِي شِعْبٍ مِنَ الشِّعَابِ يَتَّقِي رَبَّهُ وَيَدَعُ النَّاسَ مِنْ شَرِّهِ».

1660. Abū Sa'eed Al-Khudrī narrated that the Messenger of Allāh ﷺ was asked: "Which of the people are most virtuous?" He said: "A man who take part in *Jihād* in Allāh's cause." They said: "Then whom?" He said: "Then a believer who stays in one of the mountain paths out of *Taqwā* for his Lord, leaving the people secure from his evil." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الإمارة، باب فضل الشهادة في سبيل الله، ح:١٨٨ من حديث الأوزاعي والبخاري. ح:٢٧٨٦ من حديث الزهري به.

Comments:

Just as, together with doing one's obligatory duties, it would be an act of great virtue to take part in *Jihād* in the cause of Allāh and risk one's life and property in that endeavour, it would also, under special circumstances, be an act of virtue to go into seclusion in order to keep away from getting involved in a situation of internal dissent and strife. And the meaning of him fleeing to protect the people from his evil, is when if he were to stay, he would be compelled to pick and assist one side in cases of two Muslim groups fighting in *Fitnah*.

Chapter 25. Regarding (The Rewards For The Martyr)

(المعجم ٢٥) - بَابٌ: فِي [ثَوَابِ الشَّهِيدِ] (التحفة ٢٥)

1661. Anas bin Mālik narrated that the Messenger of Allāh ﷺ said: "None of the people of Paradise would wish to return to the world except for the martyr who indeed would love to return to the world saying that he would love to be killed ten times in Allāh's cause because of what he has seen of the honor that He has given him." (*Ṣaḥīḥ*)

Abū 'Eīsā said: This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٦١ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ: حَدَّثَنَا أَنَسُ بْنُ مَالِكٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَا مِنْ أَحَدٍ مِنْ أَهْلِ الْجَنَّةِ يَسُرُّهُ أَنْ يَرْجِعَ إِلَى الدُّنْيَا غَيْرُ الشَّهِيدِ فَإِنَّهُ يُحِبُّ أَنْ يَرْجِعَ إِلَى الدُّنْيَا يَقُولُ: حَتَّى أُقْتَلَ عَشْرَ مَرَّاتٍ فِي سَبِيلِ اللهِ مِمَّا يَرَى مِمَّا أَعْطَاهُ مِنَ الْكَرَامَةِ».

قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [**إسناده صحيح**] وانظر الحديث الآتي.

Comments:

See comments on no. 1643.

1662. (Another chain) from Anas, from the Prophet ﷺ with similar in its meaning. (*Ṣaḥīḥ*)

Abū 'Eīsā said: This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٦٢ - **حدَّثنا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ قَتَادَةَ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ بِمَعْنَاهُ.

قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب تمني المجاهد أن يرجع إلى الدنيا، ح:٢٨١٧ ومسلم، ح:١٨٧٧/ ١٠٩ عن محمد بن بشار به.

1663. Al-Miqdām bin Ma'dīykarib narrated that the Messenger of Allāh ﷺ, said: "There are six things with Allāh for the martyr: He is forgiven with the first flow of blood (he suffers), he is shown his place in Paradise, he is protected from punishment in the grave, secured from the greatest terror,[1] the crown of dignity is placed upon his head – and its gems are better than the world and what is in it – he is married to seventy-two wives among *Al-Ḥūril-'Ayn* of Paradise, and he may intercede for seventy of his close relatives." (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٦٣ - **حَدَّثَنَا** عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمٰنِ: حَدَّثَنَا نُعَيْمُ بْنُ حَمَّادٍ: حَدَّثَنَا بَقِيَّةُ ابْنُ الْوَلِيدِ عَنْ بَحِيرِ بْنِ سَعْدٍ، عَنْ خَالِدِ بْنِ مَعْدَانَ، عَنِ الْمِقْدَامِ بْنِ مَعْدِ يكَرِبَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لِلشَّهِيدِ عِنْدَ اللهِ سِتُّ خِصَالٍ: يُغْفَرُ لَهُ فِي أَوَّلِ دُفْعَةٍ وَيُرَى مَقْعَدَهُ مِنَ الْجَنَّةِ، وَيُجَارُ مِنْ عَذَابِ الْقَبْرِ، وَيَأْمَنُ مِنَ الْفَزَعِ الْأَكْبَرِ، وَيُوضَعُ عَلَى رَأْسِهِ تَاجُ الْوَقَارِ، الْيَاقُوتَةُ مِنْهَا خَيْرٌ مِنَ الدُّنْيَا وَمَا فِيهَا، وَيُزَوَّجُ اثْنَتَيْنِ وَسَبْعِينَ زَوْجَةً مِنَ الْحُورِ الْعِينِ، وَيُشَفَّعُ فِي سَبْعِينَ مِنْ أَقَارِبِهِ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

تخريج: [**حسن**] وأخرجه ابن ماجه، الجهاد، باب فضل الشهادة في سبيل الله، ح:٢٧٩٩ من حديث بحير بن سعد به.

Comments:

The purpose behind recounting the special favors bestowed upon the martyr is to awaken in our hearts the desire to sacrifice our lives and all that belongs to us in the path of Allāh.

Chapter 26. What Has Been Related About The Virtue Of The Garrisons

(المعجم ٢٦) - **بَابُ مَا جَاءَ فِي فَضْلِ الْمُرَابِطِ** (التحفة ٢٦)

1664. Sahl bin Sa'd narrated that the Messenger of Allāh ﷺ said: "(*Ribāṭ*) Guarding the frontier for a day in the cause of Allāh is better than the world and what is in it. And an afternoon the worshipper

١٦٦٤ - **حَدَّثَنَا** أَبُو بَكْرِ بْنُ أَبِي النَّضْرِ: حَدَّثَنِي أَبُو النَّضْرِ [الْبَغْدَادِيُّ]: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ عَبْدِ اللهِ بْنِ دِينَارٍ عَنْ أَبِي حَازِمٍ، عَنْ سَهْلِ بْنِ سَعْدٍ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ:

[1] See *Sūrat Al-Anbiyā'* 21:103.

«رِبَاطُ يَوْمٍ فِي سَبِيلِ اللهِ خَيْرٌ مِنَ الدُّنْيَا وَمَا عَلَيْهَا، وَالرَّوْحَةُ يَرُوحُهَا العَبْدُ فِي سَبِيلِ اللهِ أَوِ الْغَدْوَةُ خَيْرٌ مِنَ الدُّنْيَا وَمَا عَلَيْهَا، وَمَوضِعُ سَوْطِ أَحَدِكُمْ فِي الْجَنَّةِ خَيْرٌ مِنَ الدُّنْيَا وَمَا عَلَيْهَا» هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

spends in the cause of Allāh – or a morning – is better than the world and what is on it. And the space occupied by the whip of one of you in Paradise is better than the world and what is on it." (*Ṣaḥīḥ*)

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: وأخرجه البخاري، الجهاد والسير، باب فضل رباط يوم في سبيل الله، ح:٢٨٩٢ من حديث أبي النضر به وللحديث طرق عند البخاري، ح:٢٧٩٤، ٣٢٥٠، ٦٤١٥، ومسلم، ح:١٨٨١/١١٣، ١١٤ وغيرهما.

Comments:

See comments under chapter 17.

١٦٦٥ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ [ابْنُ عُيَيْنَةَ]: حَدَّثَنَا مُحَمَّدُ بْنُ الْمُنْكَدِرِ قَالَ: مَرَّ سَلْمَانُ الفَارِسِيُّ بِشُرَحْبِيلَ بْنِ السِّمْطِ وهُوَ فِي مُرَابَطٍ لَهُ وقَدْ شَقَّ عَلَيْهِ وعَلَىٰ أَصْحَابِهِ، فَقَالَ: أَلَا أُحَدِّثُكَ يَا ابْنَ السِّمْطِ بِحَدِيثٍ سَمِعْتُهُ مِنْ رَسُولِ اللهِ ﷺ؟ قَالَ: بَلَى، قَالَ: سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «رِبَاطُ يَوْمٍ فِي سَبِيلِ اللهِ أَفْضَلُ» - ورُبَّمَا قَالَ: - «خَيْرٌ مِنْ صِيَامِ شَهْرٍ وَقِيَامِهِ، ومَنْ مَاتَ فِيهِ وُقِيَ فِتْنَةَ القَبْرِ، ونُمِيَ لَهُ عَمَلُهُ إِلَى يَوْمِ القِيَامَةِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

1665. Muḥammad bin Al-Munkadir said: "Salmān Al-Fārisī passed by Shuraḥbīl bin As-Simṭ while he was in a garrison in which he and his companions were suffering from difficulties. He said to him: 'Shall I narrate to you – O Ibn As-Simṭ – a *Ḥadīth* I heard from the Messenger of Allāh ﷺ?' He said: 'Of course.' He said: 'I heard the Messenger of Allāh ﷺ saying: "(*Ribāṭ*) Guarding the frontier for a day in the cause of Allāh is more virtuous" – and perhaps he said: "better, than fasting a month and standing (in prayer) for it. And whoever dies in it, he is protected from the trials of the grave, and his deeds (continuously) multiplied until the Day of Resurrection."' (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan*.

تخريج: [صحيح] ورواه مسلم، ح:١٩١٣ من طريق آخر عن شرحبيل بن السمط عن سلمان به * حديث أيوب بن موسى وأخرجه مسلم، ح:١٩١٣.

Comments:

See comments under chapter 2.

1666. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever meets Allāh without any traces from *Jihād* he meets Allāh with a defect." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* as a narration of Al-Walīd bin Muslim from Ismā'īl bin Rāfi'. Ismā'īl bin Rāfi' was graded weak by some of the people of *Ḥadīth*. I heard Muḥammad saying: "He is trustworthy, average (*Muqārib*) in *Ḥadīth*."

This *Ḥadīth* has been reported from Abū Hurairah from the Prophet ﷺ, through other than this route. Regarding the *Ḥadīth* of Salmān, its chain is not connected, Muḥammad bin Al-Munkadir did not see Salmān Al-Fārisī.

This *Ḥadīth* has been reported from Ayyūb bin Mūsā, from Makḥūl, from Shuraḥbīl bin As-Simṭ, from Salmān, from the Prophet ﷺ.

١٦٦٦ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا الْوَلِيدُ بْنُ مُسْلِمٍ، عَنْ إِسْمَاعِيلَ بْنِ رَافِعٍ، عَنْ سُمَيٍّ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ لَقِيَ اللهَ بِغَيْرِ أَثَرٍ مِنْ جِهَادٍ لَقِيَ اللهَ وفِيهِ ثُلْمَةٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ حَدِيثِ الْوَلِيدِ بْنِ مُسْلِمٍ عَنْ إِسْمَاعِيلَ بْنِ رَافِعٍ، وإِسْمَاعِيلُ بْنُ رَافِعٍ قَدْ ضَعَّفَهُ بَعْضُ أَهْلِ الْحَدِيثِ، [قَالَ:] وَسَمِعْتُ مُحَمَّدًا يَقُولُ: هُوَ ثِقَةٌ مُقَارِبُ الحَدِيثِ.

وقَدْ رُوِيَ هٰذَا الحَدِيثُ مِنْ غَيْرِ هٰذَا الْوَجْهِ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ. وحَدِيثُ سَلْمَانَ إِسْنَادُهُ لَيْسَ بِمُتَّصِلٍ، مُحَمَّدُ بْنُ الْمُنْكَدِرِ لَمْ يُدْرِكْ سَلْمَانَ الفَارِسِيَّ.

وقَدْ رُوِيَ هٰذَا الحَدِيثُ عَنْ أَيُّوبَ بْنِ مُوسَى، عَنْ مَكْحُولٍ، عَنْ شُرَحْبِيلَ بْنِ السِّمْطِ، عَنْ سَلْمَانَ عَنِ النَّبِيِّ ﷺ.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الجهاد، باب التغليظ في ترك الجهاد، ح: ٢٧٦٣ من حديث الوليد بن مسلم به * إسماعيل بن رافع: ضعيف راجع تسهيل الحاجة، ح: ١٣٣٧.

Comments:

Whoever is ordered by the Muslim ruler to take part in *Jihād* for the cause of Allāh, but makes no preparation himself for it or avoids making any kind of physical or financial sacrifice for it, nor does he soil his body in it shall certainly find himself deprived of all the blessings and benefits promised for those who lay down their lives in the cause of Allāh.

1667. Abū Ṣāliḥ, the freed slave of 'Uthmān said: "I heard 'Uthmān while on the *Minbar* saying: 'I did not inform you about a *Ḥadīth* I had heard from the Messenger of Allāh ﷺ, out of dismay that you

١٦٦٧ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا هِشَامُ بْنُ عَبْدِ المَلِكِ: حَدَّثَنَا اللَّيْثُ بْنُ سَعْدٍ: حَدَّثَنِي أَبُو عَقِيلٍ زُهْرَةُ بْنُ مَعْبَدٍ عَنْ أَبِي صَالِحٍ مَوْلَى عُثْمَانَ، قَالَ: سَمِعْتُ

might part from me. Then it occurred to me that I should narrate it to you so that one may himself choose from these matters accordingly. I heard the Messenger of Allāh ﷺ saying: '(*Ribāṭ*) Guarding the frontier for a day in Allāh's cause is better in status than a thousand days doing other than that.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*] *Gharīb*.

Muḥammad [bin Ismā'īl] said: "Abū Ṣāliḥ, the freed slave of 'Uthmān's name is Burkān."

عُثْمَانَ وهُوَ عَلَى المِنْبَرِ يَقُولُ: إِنِّي كَتَمْتُكُمْ حَدِيثًا سَمِعْتُهُ مِنْ رَسُولِ اللهِ ﷺ كَرَاهِيَةَ تَفَرُّقِكُمْ عَنِّي ثُمَّ بَدَا لِي أَنْ أُحَدِّثَكُمُوهُ لِيَخْتَارَ امْرُؤٌ لِنَفْسِهِ مَا بَدَا لَهُ، سَمِعْتُ رَسُولَ اللهِ ﷺ يَقُولُ: «رِبَاطُ يَوْمٍ فِي سَبِيلِ اللهِ خَيْرٌ مِنْ أَلْفِ يَوْمٍ فِي ما سِوَاهُ مِنَ المَنَازِلِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ] غَرِيبٌ.

[و]قَالَ مُحَمَّدٌ [بْنُ إِسْمَاعِيلَ]: أَبُو صَالِحٍ مَوْلَى عُثْمَانَ اسْمُهُ بُرْكَانُ.

تخريج: **[إسناده صحيح]** وأخرجه النسائي: ٦/ ٣٩، ح: ٣١٧١ (الجهاد، باب فضل الرباط) من حديث الليث ابن سعد به وصححه ابن حبان، ح: ١٥٩٢ والحاكم: ٢/ ٦٨، ١٤٣ ووافقه الذهبي.

Comments:

Since those were the days when people's eagerness for the doing of virtuous deeds was at its peak, it happened sometimes that the tidings of acts attracting abundant rewards from Allāh were kept from them, lest they should leave the capital city of Al-Madīnah en masse in pursuit of those acts, thus creating problems for the administration of the city or state. But once the conditions changed, they were told of those matters in order to be clear of the blame of hiding a piece of information about their own religion.

1668. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The martyr does not sense the touch of death except as one of you senses the touch of a (bug) bite." (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*.

١٦٦٨ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ وأَحْمَدُ ابْنُ نَصْرٍ النَّيْسَابُورِيُّ وغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا صَفْوَانُ بْنُ عِيسَى: حَدَّثَنَا مُحَمَّدُ بْنُ عَجْلَانَ عَنِ القَعْقَاعِ بْنِ حَكِيمٍ، عَنْ أَبِي صَالِحٍ عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «ما يَجِدُ الشَّهِيدُ مِنْ مَسِّ القَتْلِ إلَّا كَمَا يَجِدُ أَحَدُكُمْ مِنْ مَسِّ القَرْصَةِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الجهاد، باب فضل الشهادة في سبيل الله، ح: ٢٨٠٢ عن محمد بن بشار به وللحديث شواهد ضعيفة.

Comments:

Whoever goes to the battlefield with purity of intention and a fondness for fighting in Allāh's cause, Allāh fills his heart with such a burning desire for martyrdom that he feels neither fatigue nor pain and is able to wage the war with full peace of mind and achieve the goal of attaining martyrdom.

1669. Abū Umāmah narrated that the Prophet ﷺ said: "There is nothing more beloved to Allāh than two drops and two traces: A teardrop shed out of fear of Allāh, and a drop of blood shed in Allāh's cause. As for the two traces: A trace resulting in Allāh's cause,[1] and and a trace resulting from one of the duties that Allāh made obligatory." (***Hasan***)

[He said:] This *Ḥadīth* is *Ḥasan Gharīb*.

١٦٦٩ - حَدَّثَنَا زِيَادُ بْنُ أَيُّوبَ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: أَنْبَأَنَا الوَلِيدُ بْنُ جَمِيلٍ [الْفِلَسْطِينِيُّ] عَنِ القَاسِمِ أَبِي عَبْدِ الرَّحْمٰنِ، عَنْ أَبِي أُمَامَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَيْسَ شَيْءٌ أَحَبَّ إِلَى اللهِ مِنْ قَطْرَتَيْنِ وأَثَرَيْنِ: قَطْرَةٌ [مِنْ] دُمُوعٍ مِنْ خَشْيَةِ اللهِ، وقَطْرَةُ دَمٍ تُهْرَاقُ فِي سَبِيلِ اللهِ، وأَمَّا الْأَثَرَانِ فَأَثَرٌ فِي سَبِيلِ اللهِ وأَثَرٌ فِي فَرِيضَةٍ مِنْ فَرَائِضِ اللهِ».

[قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

تخريج: [إسناده حسن] وأخرجه الطبراني: ٨/ ٢٨٠، ح: ٧٩١٨ من حديث يزيد بن هارون به.

[1] "Like footsteps, or becoming dusty, or being injured in *Jihād* or other barriers from seeking knowledge." (*Tuḥfat Al-Aḥwadhī*).

In the Name of Allāh, the Merciful, the Beneficent

21. The Chapters On *Jihād* From The Messenger Of Allāh ﷺ

Chapter 1. (What Has Been Related) About The People Who Have An Excuse Not To Participate

1670. Al-Barā' bin 'Āzib narrated that the Messenger of Allāh ﷺ said: "Bring me a shoulder blade or tablet." Then he wrote:[1] Not equal are those of the believers who sit. 'Amr bin Umm Maktūm who was behind him said: "Is there an exemption for me?" So the following was revealed: Except those who are disabled..[2] (*Ṣaḥīḥ*)

There are narrations on this topic from Ibn 'Abbās, Jābir, and Zaid bin Thābit.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [and it is a *Ḥadīth* that is] *Gharīb* from the narration of Sulaimān At-Taimī from Abū Isḥāq.

And Shu'bah and Ath-Thawrī reported this *Ḥadīth* from Abū Isḥāq.

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

(المعجم ٢١) - أَبْوَابُ الْجِهَادِ عَنْ رَسُولِ اللهِ ﷺ (التحفة . . .)

(المعجم ١) - بَابُ [مَا جَاءَ] فِي أَهْلِ الْعُذْرِ فِي الْقُعُودِ (التحفة ٢٧)

١٦٧٠ - حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا الْمُعْتَمِرُ بْنُ سُلَيْمَانَ عَنْ أَبِيهِ، عَنْ أَبِي إِسْحَاقَ، عَنِ الْبَرَاءِ بْنِ عَازِبٍ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «ائْتُونِي بِالْكَتِفِ أَوِ اللَّوْحِ، فَكَتَبَ: ﴿لَا يَسْتَوِي الْقَاعِدُونَ مِنَ الْمُؤْمِنِينَ﴾، وَعَمْرُو بْنُ أُمِّ مَكْتُومٍ خَلْفَ ظَهْرِهِ، فَقَالَ: هَلْ لِي رُخْصَةٌ؟ فَنَزَلَتْ: ﴿غَيْرُ أُولِي الضَّرَرِ﴾» [النساء: ٩٥].

وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ، وجَابِرٍ، وزَيْدِ ابْنِ ثَابِتٍ.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [وهُوَ حَدِيثٌ] غَرِيبٌ مِنْ حَدِيثِ سُلَيْمَانَ التَّيْمِيِّ عَنْ أَبِي إِسْحَاقَ.

وقَدْ رَوَى شُعْبَةُ والثَّوْرِيُّ عَنْ أَبِي إِسْحَاقَ هٰذَا الْحَدِيثَ.

تخريج: [صحيح] وأخرجه النسائي: ٦/ ١٠، ح: ٣١٠٣ (الجهاد، باب فضل المجاهدين على القاعدين) عن نصر بن علي به ورواه البخاري، ح: ٤٥٩٤ ومسلم، ح: ١٨٩٨ من حديث أبي

[1] Zaid bin Thābit, as indicated in a narration of Muslim.

[2] All of which is from *An-Nisā'* 4:95.

إسحاق به * وفي الباب عن ابن عباس [يأتي: ٣٠٣٢] وجابر [مسلم، ح: ١٩١١] وزيد بن ثابت [يأتي: ٣٠٣٣ وأحمد: ٥/ ١٨٤] * حديث شعبة عند البخاري، ح: ٢٨٣١، ٤٥٩٣ ومسلم، ح: ١٨٩٨/ ١٤١ وحديث سفيان الثوري عند الترمذي، ح: ٣٠٣١.

Comments:

People who do have a passion and a desire for participation in *Jihād* but find themselves unable to do so for some reason beyond their control, their lagging behind shall not be counted as sin, and their passion for *Jihād* and their desire for it would make them equal partners in reward.

Chapter 2. What Has Been Related About One Who Goes Out For Battle Abandoning His Parents

(المعجم ٢) - بَابُ مَا جَاءَ فِيمَنْ خَرَجَ إِلَى الْغَزْوِ وَتَرَكَ أَبَوَيْهِ (التحفة ٢٨)

1671. 'Abdullāh bin 'Umar said: "A man came to the Prophet ﷺ seeking permission to go for *Jihād*. So he said: 'Do you have parents (living)?' He said: 'Yes.' He said: 'Then it is for them that you should perform *Jihād*.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is something on this topic from Ibn 'Abbās.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. (One of the narrators) Abūl-'Abbās is the blind (Al-A'mā) poet (Ash-Shā'ir), from Makkah, and his name is As-Sā'ib bin Farrūkh.

١٦٧١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيى بْنُ سَعِيدٍ عَنْ سُفْيَانَ وشُعْبَةَ، عَنْ حَبِيبِ ابْنِ أَبِي ثَابِتٍ، عَنْ أَبِي الْعَبَّاسِ، عَنْ عَبْدِ اللهِ ابْنِ عَمْرٍو قَالَ: جَاءَ رَجُلٌ إِلَى النَّبِيِّ ﷺ يَسْتَأْذِنُهُ فِي الْجِهَادِ، فَقَالَ: «أَلَكَ وَالِدَانِ؟» قَالَ: نَعَمْ، قَالَ: «فَفِيهِمَا فَجَاهِدْ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو الْعَبَّاسِ هُوَ الشَّاعِرُ الأَعْمَى الْمَكِّيُّ، واسْمُهُ السَّائِبُ بْنُ فَرُّوخَ.

تخريج: متفق عليه، وأخرجه البخاري، الأدب، باب: لا يجاهد إلا بإذن الأبوين، ح: ٥٩٧٢ ومسلم، ح: ٢٥٤٩ من حديث يحيى القطان به * وفي الباب عن ابن عباس [الطبراني في الكبير: ١١/ ٤١١، ح: ١٢١٦٧].

Comments:

Dutifulness towards parents and according respectful treatment to them is the bound duty of each individual. No one, therefore, is allowed to go out for *Jihād* without his parents' consent except in cases where, under the conditions of the time, *Jihād* becomes everyone's individual duty. Ibn Qudāmah has claimed unanimity among scholars on this point. The same view was held by the Companions, like 'Umar and 'Uthmān, and by the leading lights of succeeding generations, like Imām Mālik, Al-Awzā'i, Ath-Thawrī and Ash-Shafi'ī, just to name a few (*Al-Mughnī*, v.13, p.2625).

Chapter 3. What Has Been Related About A Lone Man Being Sent (As A Commander)[1] Over A Military Expedition

(المعجم ٣) - بَابُ مَا جَاءَ فِي الرَّجُلِ يُبْعَثُ سَرِيَّةً وَحْدَهُ (التحفة ٢٩)

1672. Al-Ḥajjāj bin Muḥammad narrated that Ibn Juraij commented on Allāh's Saying: Obey Allāh and obey the Messenger, and those in authority among you.,[2] he said: "Abdullāh bin Ḥudhāfah bin Qais bin 'Adī As-Sahmī was sent by the Messenger of Allāh ﷺ (as commander) over a military expedition. I was informed of that by Ya'lā bin Muslim, from Sa'eed bin Jubair, from Ibn 'Abbās." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*. We do not know of it except as a narration of Ibn Juraij.

١٦٧٢ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيى [النَّيسَابُورِيُّ]: حَدَّثَنَا الْحَجَّاجُ بْنُ مُحَمَّدٍ قَالَ: قَالَ ابْنُ جُرَيْجٍ فِي قَوْلِهِ: ﴿أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنكُمْ﴾ [النساء: ٥٩] قَالَ: عَبْدُ اللهِ بْنُ حُذَافَةَ بْنِ قَيْسِ بْنِ عَدِيٍّ السَّهْمِيُّ بَعَثَهُ رَسُولُ اللهِ ﷺ عَلَى سَرِيَّةٍ. أَخْبَرَنِيهِ يَعْلَى بْنُ مُسْلِمٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ ابْنِ جُرَيْجٍ.

تخريج: متفق عليه، وأخرجه البخاري، التفسير، باب: ﴿أطيعوا الله وأطيعوا الرسول وأولي الأمر منكم﴾ وذوي الأمر، ح: ٤٥٨٤ ومسلم، ح: ١٨٣٤ من حديث الحجاج بن محمد به.

Comments:

Ibn Juraij's comment on the Qur'ānic verse (4:59) is intended to highlight the fact that, since 'Abdullāh bin Hudhāfah had been appointed commander of the expedition by the Prophet ﷺ, for all intent and purposes he was one of the people in authority whose obedience has been made compulsory by the Qur'ān and *Ḥadīth*. A vast majority of scholars of the past and present also consider government functionaries (including the commander of the brigade) as the veritable "people of authority" of the community, and there is no doubt about that under an Islāmic government, some scholars take the term to mean 'men of learning'. (*Tuḥfat-Al-Aḥwadhī*, v. 3, p. 21).

Chapter 4. What Has Been Related About It Being Disliked For A Man To Travel Alone

(المعجم ٤) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَنْ يُسَافِرَ الرَّجُلُ وَحْدَهُ (التحفة ٣٠)

1673. Ibn 'Umar narrated that the

١٦٧٣ - حَدَّثَنَا أَحْمَدُ بْنُ عَبْدَةَ الضَّبِّيُّ

[1] See *Tuḥfat Al-Aḥwadhī*.
[2] *An-Nisā'* 4:59.

Messenger of Allāh ﷺ said: "If the people knew what I know about being alone, then a rider would not journey at night." – meaning alone. (*Ṣaḥīḥ*)

الْبَصْرِيُّ: حَدَّثَنَا سُفْيَانُ [بْنُ عُيَيْنَةَ] عَنْ عَاصِمِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَوْ أَنَّ النَّاسَ يَعْلَمُونَ مَا أَعْلَمُ مِنَ الْوَحْدَةِ ما سَارَ رَاكِبٌ بِلَيْلٍ» - يَعْنِي وَحْدَهُ.

تخريج: وأخرجه البخاري، الجهاد والسير، باب السير وحده، ح:٢٩٩٨ من حديث عاصم ابن محمد به.

Comments:

Going out alone would not be a thing of blemish if the exigencies of war demand that the person undertake the journey as a scout in order to monitor the activities of the enemy. But going all alone on an uncalled for, and unwarranted excursion, means inviting trouble for oneself. It would not, therefore, be advisable to embark on a journey that is long, or for a stay that is expected to be long, except in company or group.

1674. 'Amr bin Shu'aib narrated from his father, from his grandfather that the Messenger of Allāh ﷺ said: "The (lone) rider is a *Shaiṭān*, and two riders are two *Shaiṭān*. Three is a traveling party." (***Ḥasan***)

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Umar (no. 1673) is a *Ḥasan Ṣaḥīḥ Ḥadīth*. We do not know of it except from this route; as a narratioin of 'Āṣim. And he is Ibn Muḥammad bin Zaid bin 'Abdullāh bin 'Umar. [Muḥammad said: "He is trustworthy, truthful. And 'Āṣim bin 'Umar Al-'Umarī is weak in *Ḥadīth*, I do not report anything from him."] The *Ḥadīth* of 'Abdullāh bin 'Amr (no. 1674) is better.

١٦٧٤ - **حَدَّثَنَا** إِسْحَاقُ بْنُ مُوسَى الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ حَرْمَلَةَ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «الرَّاكِبُ شَيْطَانٌ والرَّاكِبَانِ شَيْطَانَانِ والثَّلَاثَةُ رَكْبٌ».

[**قَالَ أَبُو عِيسَى**:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ عَاصِمٍ، وهُوَ ابْنُ مُحَمَّدِ ابْنِ زَيْدِ بْنِ عَبْدِ اللهِ بْنِ عُمَرَ [قَالَ مُحَمَّدٌ: هُوَ ثِقَةٌ صَدُوقٌ. وعَاصِمُ بْنُ عُمَرَ الْعُمَرِيُّ ضَعِيفٌ فِي الحَدِيثِ لَا أَرْوِي عَنْهُ شَيْئًا]، وحَدِيثُ عَبْدِ اللهِ بْنِ عَمْرٍو أَحْسَنُ.

تخريج: **[إسناده حسن]** وأخرجه أبو داود، الجهاد، باب: في الرجل يسافر وحده، ح:٢٦٠٧ من حديث مالك به وهو في الموطأ:٢/٩٧٨ وصححه ابن خزيمة والحاكم:٢/١٠٢ ووافقه الذهبي وحسنه البغوي في شرح السنة، ح:٢٦٧٥.

Comments:

In view of the multiple types of needs during the journey, it would definitely be more prudent that a man journeys in a party of at least three, so that in the likely event of anyone's sickness or death, the others might help each other, and inform those left behind, as well as fulfill the other needs of the journey through mutual help and assistance.

Chapter 5. What Has Been Related About The Permission To Lie And Be Deceitful In War

(المعجم ٥) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي الْكَذِبِ وَالْخَدِيعَةِ فِي الْحَرْبِ

(التحفة ٣١)

1675. Jābir bin 'Abdullāh narrated that the Messenger of Allāh ﷺ said: "War is deceit." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There are narrations on this topic from 'Alī, Zaid bin Thābit, 'Āishah, Ibn 'Abbās, Abū Hurairah, Asmā' bint Yazīd bin As-Sakan, Ka'b bin Mālik, and Anas bin Mālik.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٧٥ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ وَنَصْرُ بْنُ عَلِيٍّ قَالَا: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو ابْنِ دِينَارٍ: سَمِعَ جَابِرَ بْنَ عَبْدِ اللهِ يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «الْحَرْبُ خَدْعَةٌ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عَلِيٍّ، وزَيْدِ بْنِ ثَابِتٍ، وعَائِشَةَ، وابْنِ عَبَّاسٍ، وأَبِي هُرَيْرَةَ، وَأَسْمَاءَ بِنْتِ يَزِيدَ بْنِ السَّكَنِ، وَكَعْبِ ابْنِ مالِكٍ، وأَنَسِ بْنِ مالِكٍ.

[و]هٰذَا حديثٌ حسنٌ صحيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب الحرب خدعة، ح:٣٠٣٠ ومسلم، ح:١٧٣٩ من حديث سفيان بن عيينة به * وفي الباب عن علي [النسائي في الكبرى:٥/ ١٩٣، ح:٨٦٤٤] وزيد بن ثابت [الطبراني في الكبير:٥/ ١٣٦، ح:٤٨٦٦] وعائشة [ابن ماجه، ح:٢٨٣٣] وابن عباس [ابن ماجه، ح:٢٨٣٤] وأبي هريرة [البخاري، ح:٣٠٢٩ ومسلم، ح:١٧٤٠] وأسماء بنت يزيد بن السكن [لعله يشير إلى الحديث الآتي:١٩٣٩] وكعب بن مالك [أبو داود، ح:٢٦٣٧] وأنس بن مالك [أحمد:٣/ ٢٢٤ وابن حبان].

Comments:

The Arabic word '*Khad'ah*' means a hidden plan or strategy. Similarly, *Tawriyah* (equivocation) is also a manner of speech in which the speaker, although he does not lie, deliberately uses ambiguous words so that the addressee gets a different meaning from the one intended by the speaker.

Chapter 6. What Has Been Related About Battles Of The Prophet ﷺ And How Many There Were

(المعجم ٦) - بَابُ مَا جَاءَ فِي غَزَوَاتِ النَّبِيِّ ﷺ [وَ]كَمْ غَزَا (التحفة ٣٢)

1676. Abū Isḥāq narrated: "I was next to Zaid bin Arqam when he was asked: 'How many battles did the Prophet ﷺ fight?' He said: 'Nineteen.' So I said: 'How many battles did you take part in with him?' he said: 'Seventeen.' I said: 'Which of them was the first?' He said: 'Dhāt Al-'Ushairā' or Al-'Usairā'.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٧٦ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ وأَبُو دَاوُدَ [الطَّيَالِسِيُّ] قَالَا: حَدَّثَنَا شُعْبَةُ عَنْ أَبِي إِسْحَاقَ قَالَ: كُنْتُ إِلَى جَنْبِ زَيْدِ بْنِ أَرْقَمَ فَقِيلَ لَهُ: كَمْ غَزَا النَّبِيُّ ﷺ مِنْ غَزْوَةٍ قَالَ: تِسْعَ عَشْرَةَ، فَقُلْتُ: كَمْ غَزَوْتَ أَنْتَ مَعَهُ؟ قَالَ: سَبْعَ عَشْرَةَ، قُلْتُ: وأَيَّتُهُنَّ كانَ أَوَّلَ؟ قَالَ: ذَاتُ الْعُشَيراءِ أَوِ الْعُسيرَاءِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، المغازي، باب غزوة العشيراء أو العسيرة، ح:٣٩٤٩ من حديث وهب بن جرير ومسلم، الجهاد، باب عدد غزوات النبي ﷺ، ح:١٢٥٤/٤٣ قبل، ح:١٨١٣ من حديث شعبة به وهو في مسند الطيالسي، ح:٦٨١، ٦٨٢، ٦٨٤.

Comments:

In the vocabulary of Islam the word '*Ghazwah*' (literally, invasion) means a military expedition personally led by the Prophet ﷺ. *Sariyyah*, on the other hand, is an expedition carried out under the orders of the Prophet ﷺ without his physical participation.

Chapter 7. What Has Been Related About Lining Up And Positioning At The Time Of Fighting

(المعجم ٧) - بَابُ مَا جَاءَ فِي الصَّفِّ وَالتَّعْبِيَةِ عِنْدَ الْقِتَالِ (التحفة ٣٣)

1677. 'Abdur-Raḥmān bin 'Awf narrated: "The Messenger of Allāh ﷺ positioned us during the night at Badr." (*Ḍa'īf*)

[Abū 'Eīsā said:] There is something on this topic from Abū Ayyūb.

This *Ḥadīth* is *Gharīb*, we do not know of it except from this route. I asked Muḥammad bin Ismā'īl

١٦٧٧ - حَدَّثَنَا مُحَمَّدُ بْنُ حُمَيْدٍ الرَّازِيُّ: حَدَّثَنَا سَلَمَةُ بْنُ الفَضْلِ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ عَوْفٍ قَالَ: عَبَّأَنَا رَسُولُ اللهِ ﷺ بِبَدْرٍ لَيْلًا.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي أَيُّوبَ.

about this *Ḥadīth*, but he did not know it, and he said: "Muḥammad bin Isḥāq heard from 'Ikrimah." And when I saw him, he had a good opinion about Muḥammad bin Ḥumaid Ar-Rāzī, then he considered him weak later.

[و]هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ، وسَأَلْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنْ هٰذَا الحَدِيثِ فَلَمْ يَعْرِفْهُ وقَالَ: مُحَمَّدُ بْنُ إِسْحَاقَ سَمِعَ مِنْ عِكْرِمَةَ. وحِينَ رَأَيْتُهُ كَانَ حَسَنَ الرَّأْيِ فِي مُحَمَّدِ بْنِ حُمَيْدٍ الرَّازِيِّ ثُمَّ ضَعَّفَهُ بَعْدُ.

تخريج: [إسناده ضعيف] * محمد بن حميد: ضعيف وكان ابن معين حسن الرأي فيه(تقريب) وابن إسحاق عنعن إن صح السند إليه * وفي الباب عن أبي أيوب [أحمد: ٥/ ٤٢٠].

Comments:

Although the narration as such is weak, yet there is no doubt that the right way to fight a war is to make proper preparations and arrangements, as well as through the lining up of the troops for it in proper time. Once the hostilities have started, there will be little or no time left for doing those things.

Chapter 8. What Has Been Related About Supplicating At The Time Of Fighting

(المعجم ٨) - بَابُ مَا جَاءَ فِي الدُّعَاءِ عِنْدَ الْقِتَالِ (التحفة ٣٤)

1678. Ibn Abī Awfā said: "I heard him saying" – meaning the Prophet ﷺ – "while supplicating against the *Aḥzāb*: 'O Allāh, Revealer of the Book! Severe in reckoning! Rout the *Aḥzāb* and shake them.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is something on this topic from Ibn Mas'ūd.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٧٨ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: أَنْبَأَنَا إِسْمَاعِيلُ بْنُ أَبِي خَالِدٍ عَنِ ابْنِ أَبِي أَوْفَى قَالَ: سَمِعْتُهُ يَقُولُ - يَعْنِي النَّبِيَّ ﷺ، - يَدْعُو عَلَى الْأَحْزَابِ فَقَالَ: «اللَّهُمَّ مُنْزِلَ الْكِتَابِ سَرِيعَ الْحِسَابِ، اهْزِمِ الْأَحْزَابَ وزَلْزِلْهُمْ».

[**قَالَ أَبُو عِيسَى:**] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، أخرجه البخاري، الجهاد والسير، باب الدعاء على المشركين بالهزيمة والزلزلة، ح: ٢٩٣٣ ومسلم، ح: ١٧٤٢ من حديث إسماعيل بن أبي خالد به * وفي الباب عن ابن مسعود [النسائي في الكبرى، ح: ١٠٤٤٢ وعمل اليوم والليلة، ح: ٦٠٦].

Comments:

Supplication is a believer's weapon. Success and prosperity in wars come from fortitude and courage of the heart as well as from the warriors' steadfastness exhibited on the battlefield. If a warrior's heart loses its courage and fortitude, his feet will refuse to support him. If a condition of this nature overtakes the battling army, defeat will be the only outcome of war.

Chapter 9. What Has Been Related About Standards[1]

(المعجم ٩) - بَابُ مَا جَاءَ فِي الْأَلْوِيَةِ

(التحفة ٣٥)

1679. Jābir said: "The Messenger of Allāh ﷺ entered Makkah, and his standard was white." (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Gharīb*, we do not know of it except as a narration of Yaḥya bin Ādam from Sharīk. He said: I asked Muḥammad about this *Hadīth*, but he did not know it except as a narration of Yaḥya bin Ādam from Sharīk, he said: "More than one narrator has narrated to us from Sharīk from 'Ammār from Abū Az-Zubair from Jābir: 'The Prophet ﷺ entered Makkah and he was wearing a black *'Imāmah*.'"[2] (***Hasan***)

Muḥammad said: "This is the *Hadīth*."

[Abū 'Eīsā said:] Duhn is a branch of Bajīlah (the tribe), and 'Ammār Ad-Duhnī (one of the narrators) is 'Ammār bin Mu'āwiyah Ad-Duhnī, and his *Kunyah* is Abū Mu'āwiyah, he is from Al-Kūfah, and he is trustworthy according to the people of *Hadīth*.

١٦٧٩ - **حَدَّثَنَا** أَبُو كُرَيْبٍ مُحَمَّدُ بْنُ عُمَرَ ابْنِ الوَلِيدِ الكِنْدِيُّ [الْكُوفِيُّ] ومُحَمَّدُ بْنُ رَافِعٍ قَالُوا: حَدَّثَنَا يَحْيى بْنُ آدَمَ عَنْ شَرِيكٍ، عَنْ عَمَّارٍ هُوَ الدُّهْنِيُّ - عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ رَسُولَ اللهِ ﷺ دَخَلَ مَكَّةَ وَلِوَاؤُهُ أَبْيَضُ.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ يَحْيى بْنِ آدَمَ عَنْ شَرِيكٍ قَالَ: وسَأَلْتُ مُحَمَّدًا عَنْ هٰذَا الْحَدِيثِ فَلَمْ يَعْرِفْهُ إِلَّا مِنْ حَدِيثِ يَحْيَى بْنِ آدَمَ عَنْ شَرِيكٍ، وقَالَ: حَدَّثَنَا غَيْرُ واحِدٍ عَنْ شَرِيكٍ، عَنْ عَمَّارٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ دَخَلَ مَكَّةَ وعَلَيْهِ عِمَامَةٌ سَوْدَاءُ.

قَالَ مُحَمَّدٌ: والحَدِيثُ هُوَ هٰذَا.

[**قَالَ أَبُو عِيسَى**:] والدُّهْنُ بَطْنٌ مِنْ بَجِيلَةَ، وَعمَّارٌ الدُّهْنِيُّ هُوَ عَمَّارُ بْنُ مُعَاوِيَةَ الدُّهْنِيُّ، ويُكْنَى أَبَا مُعَاوِيَةَ، وهُوَ كُوفِيٌّ [وهُوَ] ثِقَةٌ عِنْدَ أَهْلِ الحَدِيثِ.

تخريج: [**حسن**] وأخرجه أبو داود، الجهاد، باب: في الرايات والألوية، ح:٢٥٩٢ وابن ماجه، ح:٢٨١٧ والنسائي، ح:٢٨٦٩ من حديث يحيى بن آدم به وصححه الحاكم على شرط مسلم:٢/ ١٠٤، ١٠٥ وله شواهد، انظر، ح:١٦٨١.

Comments:

The Arabic *Liwā'* (standard) (used here in its plural form Alwiyah) is a piece of cloth wrapped round the lance bar. *Rāyah* (flag), on the other hand, is that piece of cloth which, having tied at one end, is left fluttering loose. *Rāyah* is the for the entire army, while the one used by each individual company or brigade is called *Liwā'*.

[1] Meaning banners, like flags but smaller. See *Tuḥfat Al-Aḥwadhī*.

[2] Meaning headgear.

Chapter 10. (What Has Been Related) About Flags

(المعجم ١٠) - بَابُ [مَا جَاءَ] فِي الرَّايَاتِ (التحفة ٣٦)

1680. Yūnus bin 'Ubaid, the freed slave of Muḥammad bin Al-Qāsim said: "Muḥammad bin Al-Qāsim sent me to Al-Barā' bin 'Āzib to ask him about the flag of the Messenger of Allāh ﷺ. He said: 'It was a black square of *Namirah*.'" (***Ḥasan***)

[Abū 'Eīsā said:] There are narrations on this topic from 'Alī, Al-Ḥārith bin Ḥassān, and Ibn 'Abbās.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except from the report of Ibn Abī Zā'idah. And Abū Ya'qūb Ath-Thaqafī's name is Isḥāq bin Ibrāhīm. 'Ubaidullāh bin Mūsā also reports from him.

١٦٨٠ - **حَدَّثَنَا** أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَحْيَى بْنُ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ: حَدَّثَنَا أَبُو يَعْقُوبَ الثَّقَفِيُّ: حَدَّثَنَا يُونُسُ بْنُ عُبَيْدٍ مَوْلَى مُحَمَّدِ بْنِ الْقَاسِمِ قَالَ: بَعَثَنِي مُحَمَّدُ بْنُ الْقَاسِمِ إِلَى الْبَرَاءِ بْنِ عَازِبٍ أَسْأَلُهُ عَنْ رَايَةِ رَسُولِ اللهِ ﷺ فَقَالَ: «كَانَتْ سَوْدَاءَ مُرَبَّعَةً مِنْ نَمِرَةٍ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عَلِيٍّ والْحَارِثِ بْنِ حَسَّانَ وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى: و]هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ ابْنِ أَبِي زَائِدَةَ. وأَبُو يَعْقُوبَ الثَّقَفِيُّ اسْمُهُ إِسْحَاقُ بْنُ إِبْرَاهِيمَ، وَرَوَى عَنْهُ أَيْضًا عُبَيْدُ اللهِ بْنُ مُوسَى.

تخريج: [حسن] وأخرجه أبو داود، أيضًا، ح:٢٥٩١ من حديث يحيى بن زكريا به وللحديث شواهد * وفي الباب عن علي [النسائي في السنن الكبرى، ح:٨٦٤٠] والحارث بن حسان [يأتي: ٣٢٧٤] وابن عباس [يأتي: ١٦٨١].

Comments:

"Al-Qāḍī said: 'The meaning of black is that most of the color of it was black, such that from a distance one could see black, not that its color was pure black. For he said: "of *Namirah*" which is a type of wool garment with black and white stripes or design that the Arabs wore. It is for that reason that it was called *Namirah*, because it resembled a *Namir* (a leopard or a tiger).'"

1671. Ibn 'Abbās said: "The flag of the Messenger of Allāh ﷺ was black, and his standard was white." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb* from this route, as a narration of Ibn 'Abbās.

١٦٨١ - **حَدَّثَنَا** مُحَمَّدُ بْنُ رَافِعٍ: حَدَّثَنَا يَحْيَى بْنُ إِسْحَاقَ [و]هُوَ السَّالِحَانِيُّ: حَدَّثَنَا يَزِيدُ بْنُ حَيَّانَ قَالَ: سَمِعْتُ أَبَا مِجْلَزٍ لَاحِقَ ابْنَ حُمَيْدٍ يُحَدِّثُ عَنِ ابْنِ عَبَّاسٍ قَالَ: كَانَتْ رَايَةُ رَسُولِ اللهِ ﷺ سَوْدَاءَ، وَلِوَاؤُهُ أَبْيَضَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ ابْنِ عَبَّاسٍ.

تخريج: [**حسن**] وأخرجه ابن ماجه، الجهاد، باب الرايات والألوية، ح:٢٨١٨ من حديث يحيى بن إسحاق به.

Comments:

Sometimes, however, the Prophet ﷺ used other colors as well. (*Tuḥfat Al-Aḥwadhī*, v.3, p.24).

Chapter 11. What Has Been Related About Code Words

(المعجم ١١) - **بَابُ مَا جَاءَ فِي الشِّعَارِ**

(التحفة ٣٧)

1682. Al-Muhallab bin Abī Ṣufrah reported from one who heard the Prophet ﷺ saying: "If you suffer a surprise attack from the enemy then say: '*Ḥa Mīm*, they will not be victorious.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is something on this topic from Salamah bin Al-Akwa'. This is how some of them reported it from Abū Isḥāq, the same as the narration of Ath-Thawrī. And it has been reported from him, from Al-Muhallab bin Abī Ṣufrah from the Prophet ﷺ in *Mursal* form.

١٦٨٢ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي إِسْحَاقَ، عَنِ الْمُهَلَّبِ بْنِ أَبِي صُفْرَةَ، عَمَّنْ سَمِعَ النَّبِيَّ ﷺ يَقُولُ: «إِنْ بَيَّتَكُمُ الْعَدُوُّ فَقُولُوا: حم لَا يُنْصَرُونَ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ سَلَمَةَ ابْنِ الْأَكْوَعِ، وهٰكَذَا رَوَى بَعْضُهُمْ عَنْ أَبِي إِسْحَاقَ مِثْلَ رِوَايَةِ الثَّوْرِيِّ. وَرُوِيَ عَنْهُ عَنِ الْمُهَلَّبِ بْنِ أَبِي صُفْرَةَ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

تخريج: [**صحيح**] وأخرجه أبو داود، الجهاد، باب: في الرجل ينادي بالشعار، ح:٢٥٩٧ من حديث سفيان الثوري به وصححه الحاكم على شرط البخاري ومسلم:٢/١٠٧ ووافقه الذهبي(!) وصححه ابن كثير في تفسيره:٤/٦٩ وأبو إسحاق صرح بالسماع عند عبدالرزاق، ح:٩٤٦٧ * وفي الباب عن سلمة بن الأكوع [أبو داود، ح:٢٥٩٦].

Comments:

During battle, special codes are introduced among comrades in order to identify the friend from foe, so that, in case of a surprise attack or ambush from the enemy in the darkness of the night, fellow fighters of the same army may not blindly clash with each other. The codes would also enable the guards to identify the enemy spies through demanding the code words from them. The codes, therefore, have to be changed from time to time.

Chapter 12. What Has Been Related About The Description Of The Sword Of The Messenger Of Allāh ﷺ

(المعجم ١٢) - بَابُ مَا جَاءَ فِي صِفَةِ سَيْفِ رَسُولِ اللهِ ﷺ (التحفة ٣٨)

1683. 'Uthmān bin Sa'd narrated that Ibn Sīrīn said: "I made my sword like the sword of Samurah bin Jundab. Samurah claimed that he made his sword like the sword of the Messenger of Allāh ﷺ, and it was a *Ḥanafiyah*."[1] **(*Ḍa'īf*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except through this route. Yaḥya bin Sa'eed Al-Qaṭṭān has criticized 'Uthmān bin Sa'd the scribe, and he graded him weak due to his memory.

١٦٨٣ - **حَدَّثَنَا** مُحَمَّدُ بْنُ شُجَاعٍ الْبَغْدَادِيُّ: حَدَّثَنَا أَبُو عُبَيْدَةَ الْحَدَّادُ عَنْ عُثْمَانَ بْنِ سَعْدٍ، عَنِ ابْنِ سِيرِينَ قَالَ: صَنَعْتُ سَيْفِي عَلَى سَيْفِ سَمُرَةَ بْنِ جُنْدَبٍ، وَزَعَمَ سَمُرَةُ أَنَّهُ صَنَعَ سَيْفَهُ عَلَى سَيْفِ رَسُولِ اللهِ ﷺ، وكانَ حَنَفِيًّا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ. وقَدْ تَكَلَّمَ يَحْيَى ابْنُ سَعِيدٍ الْقَطَّانُ فِي عُثْمَانَ بْنِ سَعْدٍ الكَاتِبِ وَضَعَّفَهُ مِنْ قِبَلِ حِفْظِهِ.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ٥/ ٢٠ من حديث عثمان بن سعد الكاتب به وهو ضعيف كما في التقريب وغيره.

Comments:

Our virtuous predecessors would, as far as possible, model every action of theirs after the pattern of the Prophet ﷺ. May Allāh enable us as well to follow their example!

Chapter 13. What Has Been Related About Breaking The Fast At The Time Of Fighting

(المعجم ١٣) - بَابُ مَا جَاءَ فِي الْفِطْرِ عِنْدَ الْقِتَالِ (التحفة ٣٩)

1684. Abū Sa'eed Al-Khudrī narrated: "During the year of the conquest, when the Prophet ﷺ reached Marr Ẓahrān,[2] he told us that we would meet the enemy. So he ordered us to break the fast, and we [all] broke our fast." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] This *Ḥadīth* is

١٦٨٤ - **حَدَّثَنَا** أَحْمَدُ بْنُ مُحَمَّدِ بْنِ مُوسَى: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الْعَزِيزِ عَنْ عَطِيَّةَ بْنِ قَيْسٍ، عَنْ قَزَعَةَ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ قَالَ: لَمَّا بَلَغَ النَّبِيُّ ﷺ عامَ الفَتْحِ مَرَّ الظَّهْرَانِ فَآذَنَنَا بِلِقَاءِ

[1] That is, it had the appearance of one made by Banū Ḥanīfah, who were known for making swords. See *Tuḥfat Al-Aḥwadhī*.

[2] A valley between Makkah and 'Usfān. See *Tuḥfat Al-Aḥwadhī*.

العَدُوِّ فَأَمَرَنَا بِالفِطْرِ فَأَفْطَرْنَا [أَجْمَعُونَ].

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ وفِي الْبَابِ عَنْ عُمَرَ.

Ḥasan Ṣaḥīḥ, and there is something on this topic from Ibn 'Umar.

تخريج: وأخرجه مسلم، الصيام، باب أجر المفطر في السفر إذا تولى العمل، ح:١١٢٠ من حديث قزعة به.

Comments:

At times of war, toughness and strength of the body is as important a requirement as high morale and courage of the heart. Hunger and thirst of the fast naturally dampens, this strength. Therefore, when the believers are face to face with the enemy and armed clash becomes imminent; fasting must be done away with. And should the situation demand, the fast already started should also be broken, even as the Prophet ﷺ had done while on his way to the Conquest of Makkah (*Tuḥfat Al-Aḥwadhī*, v.3: p.25).

Chapter 14. What Has Been Related About Going Out During The Time Of Fright

(المعجم ١٤) - بَابُ مَا جَاءَ فِي الْخُرُوجِ عِنْدَ الْفَزَعِ (التحفة ٤٠)

1685. Anas bin Mālik narrated: "The Prophet ﷺ rode a horse belonging to Abū Ṭalḥah called Mandūb. He said: 'There is nothing to be frightened of, and we found him to be (quick) like the sea.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There is something on this topic from Ibn 'Amr bin Al-'Āṣ].

١٦٨٥ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ الطَّيَالِسِيُّ [قَالَ]: أَنْبَأَنَا شُعْبَةُ عَنْ قَتَادَةَ: حَدَّثَنَا أَنَسُ بْنُ مالِكٍ قَالَ: رَكِبَ النَّبِيُّ ﷺ فَرَسًا لِأَبِي طَلْحَةَ يُقَالُ لَهُ مَنْدُوبٌ، فَقَالَ: «ما كانَ مِنْ فَزَعٍ وإِنْ وَجَدْنَاهُ لَبَحْرًا».

[قَالَ أَبُو عِيسَى: وفِي الْبَابِ عَنِ ابْنِ عَمْرِو بْنِ العَاصِ].

[و] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الهبة وفضلها والتحريض عليها، باب من استعار من الناس الفرس، ح:٢٦٢٧ ومسلم، ح:٢٣٠٧ من حديث شعبة به وهو في مسند الطيالسي، ح:١٩٧٩ باختلاف يسير * وفي الباب عن عمرو بن العاص [أحمد:٤/٢٠٣ والنسائي في فضائل الصحابة، ح:١٩٦ والكبرى، ح:٨٣٠١].

Comments:

Sometimes, feelings of fear and panic grip the people because of some dubious happening or rumour. In a condition like this, it would be an act of great wisdom if a person goes out to investigate the matter and, on return, apprise the people of the correct situation and thus help them out of their unnecessary fear or panic.

1686. Anas [bin Mālik] said: "There was a cause for fright in Al-Madīnah. So the Messenger of Allāh ﷺ borrowed a horse of ours called Mandūb. He said: 'I have not seen anything to be frightened of, and we found him to be (quick) like the sea.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٨٦ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ وابْنُ أَبِي عَدِيٍّ وأَبُو دَاوُدَ قَالُوا: حَدَّثَنَا شُعْبَةُ عَنْ قَتَادَةَ، عَنْ أَنَسٍ [ابْنِ مالِكٍ] قَالَ: كانَ فَزَعٌ بالمَدِينَةِ فاسْتَعَارَ رَسُولُ اللهِ ﷺ فَرَسًا لَنَا يُقَالُ لَهُ مَنْدُوبٌ، فَقَالَ: «ما رَأَيْنَا مِنْ فَزَعٍ وإِنْ وَجَدْنَاهُ لَبَحْرًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الفضائل، باب شجاعته ﷺ، ح:٢٣٠٧ عن محمد بن بشار به مختصرًا وانظر الحديث السابق.

1687. Anas narrated: "The Prophet ﷺ was the nicest person among the people, the most generous of the people, and the bravest among the people." He said: "The inhabitants of Al-Madīnah became frightened one night upon hearing a loud noise." He said: "So the Prophet ﷺ met them upon an unsaddled horse belonging to Abū Ṭalḥah, with a sword hanging around his neck. He said: 'Do not fear, do not fear.' The Prophet ﷺ said: 'I found him to be (quick) like the sea.'" – meaning the horse. (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٦٨٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ ثَابِتٍ، عَنْ أَنَسٍ قَالَ: كانَ النَّبِيُّ ﷺ أَحْسَنَ النَّاسِ، وأَجْوَدَ النَّاسِ، وأَشْجَعَ النَّاسِ، قَالَ: وَلَقَدْ فَزِعَ أَهْلُ المَدِينَةِ لَيْلَةً سَمِعُوا صَوْتًا قَالَ: فَتَلَقَّاهُمُ النَّبِيُّ ﷺ عَلَى فَرَسٍ لِأَبِي طَلْحَةَ عُرْيٍ وهُوَ مُتَقَلِّدٌ سَيْفَهُ، فَقَالَ: «لَمْ تُرَاعُوا لَمْ تُرَاعُوا»، فَقَالَ النَّبِيُّ ﷺ: «وجَدْتُهُ بَحْرًا» - يَعْنِي الفَرَسَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب: إذا فزعوا بالليل؟، ح:٣٠٤٠ عن قتيبة ومسلم، ح:٢٣٠٧ من حديث حماد بن زيد به.

Chapter 15. What Has Been Related About Standing Firm During The Time Of Fighting

(المعجم ١٥) - بَابُ مَا جَاءَ فِي الثَّبَاتِ عِنْدَ الْقِتَالِ (التحفة ٤١)

1688. Abū Isḥāq narrated from Al-Barā' bin 'Āzib who said: "A man

١٦٨٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا سُفْيَانُ [الثَّوْرِيُّ]:

said to us: 'Did you flee from the Messenger of Allāh ﷺ O Abū 'Umārah?'" He said: "No. By Allāh! I did not flee from the Messenger of Allāh ﷺ, but some hasty people fled and (the tribe of) Hawāzin assaulted them with arrows. The Messenger of Allāh ﷺ was on his white mule, and Abū Sufyān bin Al-Ḥāri<u>th</u> bin 'Abdul-Muṭṭalib was holding its reigns. The Messenger of Allāh ﷺ was saying: 'I am the Prophet without lie, I am the son of 'Abdul-Muṭṭalib.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There are narrations on this topic from 'Alī, and Ibn 'Umar.

حَدَّثَنَا أَبُو إِسْحَاقَ عَنِ الْبَرَاءِ بْنِ عَازِبٍ قَالَ: قَالَ لَنَا رَجُلٌ أَفَرَرْتُمْ عَنْ رَسُولِ اللهِ ﷺ يَا أَبَا عُمَارَةَ؟ قَالَ: لَا، واللهِ مَا وَلَّى رَسُولُ اللهِ ﷺ وَلَكِنْ وَلَّى سَرَعَانُ النَّاسِ تَلَقَّتْهُمْ هوَازِنُ بالنَّبْلِ وَرَسُولُ اللهِ ﷺ عَلَى بَغْلَتِهِ، وَأَبُو سُفْيَانَ بْنُ الحَارِثِ بْنِ عَبْدِ المُطَّلِبِ آخِذٌ بِلِجَامِهَا، وَرَسُولُ اللهِ ﷺ يَقُولُ: «أَنَا النَّبِيُّ لَا كَذِبَ، أَنَا ابْنُ عَبْدِ المُطَّلِبِ».

[قَالَ أَبُو عِيسَى]: وفِي الْبَابِ عَنْ عَلِيٍّ، وابْنِ عُمَرَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب بغلة النبي ﷺ البيضاء، ح:٢٨٧٤ ومسلم، ح:١٧٧٦/ ٨٠ من حديث يحيى القطان به * وفي الباب عن علي [لعله يشير إلى حديث أحمد:١/ ٨٦، ١٢٦، ١٥٦] وابن عمر [يأتي:١٦٨٩].

Comments:

An army unit or contingent is only dubbed as vanquished or retreated if the commander has run away from the field. In case the chief is holding his ground in the field, the fleeing fighters can easily return to him, and the army cannot be described as retreated or defeated.

1689. Ibn 'Umar narrated: "Indeed we saw the Day of Ḥunain, and indeed the two armies fled from the Messenger of Allāh ﷺ, and there did not remain one hundred men with the Messenger of Allāh ﷺ." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadī<u>th</u>* is *Ḥasan Gharīb* as a narration of 'Ubaidullāh. We do not know of it except from this route.

١٦٨٩ - حَدَّثَنَا مُحَمَّدُ بْنُ عُمَرَ بْنِ عَلِيٍّ المُقَدَّمِيُّ [البَصْرِيُّ]: حَدَّثَنِي أَبِي عَنْ سُفْيَانَ بْنِ حُسَيْنٍ، عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: لَقَدْ رَأَيْتُنَا يَوْمَ حُنَيْنٍ وإِنَّ الفِئَتَيْنِ لَمُوَلِّيَتَانِ وَمَا مَعَ رَسُولِ اللهِ ﷺ مِائَةُ رَجُلٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ عُبَيْدِ اللهِ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ.

تخريج: [صحيح] وأخرجه الطبراني في الأوسط: ٥/ ٥١١، ٥١٢، ح:٤٩٧٣ من حديث محمد بن علي به وقال: "تفرد به محمد" يعني ابن عمر بن علي المقدمي بهذا السند، وللحديث شواهد كثيرة، انظر تفسير ابن كثير:١/ ٣٥٨ وغيره.

Comments:

Initially, at the battle of Hunain, fighters from both groups - the *Ansārs* (Helpers) and *Muhājirs* (Emigrants) had fled the battle field. The Prophet's exemplary courage and fortitude, however, gave them the courage once again, and slowly but surely they returned and joined back the battle. It is reported on the authority of 'Abdullāh bin Mas'ūd ﷺ that there were eighty Emigrants with the Messenger of Allāh ﷺ on that occasion. (*Tuhfat Al-Ahwadhī*, v.3, p.26)

Chapter 16. What Has Been Related About Swords And Their Ornamentation

(المعجم ١٦) - بَابُ مَا جَاءَ فِي السُّيُوفِ وَحِلْيَتِهَا (التحفة ٤٢)

1690. Ṭālib bin Hujair narrated from Hūd bin 'Abdullāh bin Sa'd, from his grandfather Mazīdah, who said: "The Messenger of Allāh ﷺ entered (Makkah) on the Day of the Conquest and there was gold and silver on his sword." Ṭālib said: "So I asked him about the silver and he said: 'The hand-guard of his sword was of silver.'" (***Hasan***)

[Abū 'Eīsā said:] There is something on this topic from Anas.

This *Hadīth* is *Hasan Gharīb*. Hūd's (great) grandfather's name is Mazīdah Al-'Aṣarī.

١٦٩٠ - حَدَّثَنَا مُحَمَّدُ بْنُ صُدْرَانَ أَبُو جَعْفَرٍ الْبَصْرِيُّ: حَدَّثَنَا طَالِبُ بْنُ حُجَيْرٍ عَنْ هُودِ بْنِ عَبْدِ اللهِ بْنِ سَعْدٍ، عَنْ جَدِّهِ مَزِيدَةَ قَالَ: دَخَلَ رَسُولُ اللهِ ﷺ يَوْمَ الْفَتْحِ وَعَلَى سَيْفِهِ ذَهَبٌ وفِضَّةٌ، قَالَ طَالِبٌ: فَسَأَلْتُهُ عَنِ الْفِضَّةِ فَقَالَ: كَانَتْ قَبِيعَةُ السَّيْفِ فِضَّةً.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَنَسٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وجَدُّ هُودٍ اسْمُهُ مَزِيدَةُ الْعَصَرِيُّ.

تخريج: [إسناده حسن] وأخرجه الطبراني في الكبير: ٢٠/ ٣٤٥-٣٤٧، ح: ٨١٢ من حديث محمد بن صدران به * وفي الباب عن أنس [يأتي: ١٦٩١].

Comments:

In order to have a firm hold on the sword's hand-guard, the fighters generally had gold, silver or iron plaited on it. Muslims, however, generally had iron, leather or polish on it. Some of them even had silver towards the end of the hand-guards. (*Tuhfat Al-Ahwadhī*, v.3, p.27).

1691. Anas said: "The hand-guard on the sword of the Messenger of Allāh ﷺ was made from silver." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*. This is how it has been reported from Hamām from Qatādah from Anas. While some of

١٦٩١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ [بْنِ حَازِمٍ]: حَدَّثَنَا أَبِي عَنْ قَتَادَةَ، عَنْ أَنَسٍ قَالَ: كَانَتْ قَبِيعَةُ سَيْفِ رَسُولِ اللهِ ﷺ مِنْ فِضَّةٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

them reported it from Qatādah, from Sa'eed bin Abī Al-Ḥasan who said: "The hand-guard on the sword of the Messenger of Allāh ﷺ was made from silver."

غَرِيبٌ وهٰكَذَا رُوِيَ عَنْ هَمَّامٍ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ، وقَدْ رَوَى بَعْضُهُمْ عَنْ قَتَادَةَ، عَنْ سَعِيدِ بْنِ أَبِي الْحَسَنِ قَالَ: كانَتْ قَبِيعَةُ سَيْفِ رَسُولِ اللهِ ﷺ مِنْ فِضَّةٍ.

تخريج: [**صحيح**] وأخرجه أبو داود، الجهاد، باب: في السيف يحلى، ح:٢٥٨٣ والنسائي، ح:٥٣٧٦ من حديث جرير بن حازم به وللحديث شواهد عند النسائي، ح:٥٣٧٥ وغيره ورواه أبو داود، ح:٢٥٨٤ عن قتادة عن سعيد بن أبي الحسن به.

Chapter 17. What Has Been Related About A Coat Of Mail

(المعجم ١٧) - بَابُ مَا جَاءَ فِي الدِّرْعِ (التحفة ٤٣)

1692. Az-Zubair bin Al-'Awwām said: "On the Day of Uḥud, the Prophet ﷺ wore two coats of mail. He tried to get up on a boulder but was not able to, so Ṭalḥah squatted under him, lifting the Prophet ﷺ upon it such that he could sit on the boulder. So he ﷺ said: (Paradise) "It is obligated for Ṭalḥah."' (***Ḥasan***)

[Abū 'Eīsā said:] There are narrations on this topic from Ṣafwān bin Umayyah and As-Sā'ib bin Yazīd.

This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except through the narration of Muḥammad bin Isḥāq.

١٦٩٢ - حَدَّثَنَا أَبُو سَعِيدٍ الْأَشَجُّ: حَدَّثَنَا يُونُسُ بْنُ بُكَيْرٍ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنْ يَحْيَى بْنِ عَبَّادِ بْنِ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنْ أَبِيهِ، عَنْ جَدِّهِ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنِ الزُّبَيْرِ ابْنِ الْعَوَّامِ قَالَ: كانَ عَلَى النَّبِيِّ ﷺ دِرْعَانِ يَوْمَ أُحُدٍ، فَنَهَضَ إِلَى الصَّخْرَةِ فَلَمْ يَسْتَطِعْ، فَأَقْعَدَ طَلْحَةَ تَحْتَهُ، فَصَعِدَ النَّبِيُّ ﷺ عَلَيْهِ حَتَّى اسْتَوَىٰ عَلَى الصَّخْرَةِ، فَقَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «أَوْجَبَ طَلْحَةُ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ صَفْوَانَ ابْنِ أُمَيَّةَ والسَّائِبِ بْنِ يَزِيدَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ مُحَمَّدِ بْنِ إِسْحَاقَ.

تخريج: [**إسناده حسن**] وأخرجه البزار (البحر الزخار):٣/١٨٨، ح:٩٧٢ من حديث أبي سعيد الأشج به ومحمد بن إسحاق صرح بالسماع في الرواية المختصرة عند أبي يعلى:٢/٣٣، ح:٦٧٠ والحديث صححه ابن حبان، ح:٢٢١٢ والحاكم:٣/ ٢٥، ٣٧٣، ٣٧٤ والذهبي * وفي الباب عن صفوان بن أمية [أبو داود، ح:٣٥٦٢-٣٥٦٤] والسائب بن يزيد [الترمذي في الشمائل، ح:١١٠].

Comments:

Taking offensive or defensive armament for war is not against the principle of *Tawakkul* (reliance upon Allāh). Ṭalḥah ﷺ risked his own life and got his own body lacerated, to the extent that he sustained more than eighty wounds on his body, and one of his hands was permanently paralyzed. (*Tuḥfat Al-Aḥwadhī*, v.3, p.27 & 28).

Chapter 18. What Has Been Related About the Helmet

(المعجم ١٨) - بَابُ مَا جَاءَ فِي الْمِغْفَرِ (التحفة ٤٤)

1693. Anas bin Mālik narrated: "The Prophet ﷺ entered (Makkah) during the year of the Conquest, and upon his head was a helmet (*Mighfar*). It was said to him: 'Ibn Khaṭal is clinging to the covering of the Ka'bah.' So he said: 'Kill him.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ* [*Gharīb*]. We do not know of anyone important who reported it other than Mālik from Az-Zuhrī.

١٦٩٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مالِكُ بْنُ أَنَسٍ عَنِ ابْنِ شِهَابٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: دَخَلَ النَّبِيُّ ﷺ عَامَ الْفَتْحِ وعَلَى رَأْسِهِ المِغْفَرُ فَقِيلَ لَهُ: ابْنُ خَطَلٍ مُتَعَلِّقٌ بِأَسْتَارِ الكَعْبَةِ، فَقَالَ: «اقْتُلُوهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [غَرِيبٌ]. لَا نَعْرِفُ كَبِيرَ أَحَدٍ رَوَاهُ غَيْرُ مالِكٍ عَنِ الزُّهْرِيِّ.

تخريج: متفق عليه، وأخرجه مسلم، الحج، باب جواز دخول مكة بغير إحرام، ح:١٣٥٧ عن قتيبة والبخاري، ح:١٨٤٦ من حديث مالك به وهو في الموطأ: ١/ ٤٢٣ (يحيى).

Comments:

As regards 'Abdullāh bin Khaṭal, he had first converted to Islam, then turned apostate. He was not only a war criminal, but also had gone as far as getting his two handmaids to sing verses of poetry lampooning the Prophet ﷺ. That is the reason why the Prophet ﷺ condemned him to death. (*Tuḥfat Al-Aḥwadhī*, v.3, p.28).

Chapter 19. What Has Been Related About The Virtue Of Horses

(المعجم ١٩) - بَابُ مَا جَاءَ فِي فَضْلِ الْخَيْلِ (التحفة ٤٥)

1694. 'Urwah Al-Bāriqī narrated that the Messenger of Allāh ﷺ said: "Goodness will remain in the forelocks of horses until the Day of Judgement: (They bring about) Reward and spoils of war." (***Ṣaḥīḥ***)

١٦٩٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْثَرُ بْنُ الْقَاسِمِ عَنْ حُصَيْنٍ، عَنِ الشَّعْبِيِّ، عَنْ عُرْوَةَ البَارِقِيِّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «الْخَيْرُ مَعْقُودٌ فِي نَوَاصِي الْخَيْلِ إِلَى يَوْمِ القِيَامَةِ:

الْأَجْرُ والمَغْنَمُ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ، وأَبِي سَعِيدٍ، وجَرِيرٍ، وأَبِي هُرَيْرَةَ، وأَسْمَاءَ بِنْتِ يَزِيدَ، والمُغِيرَةِ بْنِ شُعْبَةَ، وَجَابِرٍ.

[قَالَ أَبُو عِيسَى: و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وعُرْوَةُ هُوَ ابْنُ أَبِي الْجَعْدِ البَارِقِيُّ ويُقَالُ: هُوَ عُرْوَةُ بْنُ الْجَعْدِ. قَالَ أَحْمَدُ بْنُ حَنْبَلٍ: وفِقْهُ هٰذَا الحَدِيثِ أَنَّ الْجِهَادَ مَعَ كُلِّ إِمَامٍ إِلَى يَوْمِ الْقِيَامَةِ.

[Abū 'Eīsā said:] There are narrations on this topic from Ibn 'Umar, Abū Sa'eed, Jarīr, Abū Hurairah, Asmā' bint Yazīd, Al-Mughīrah bin Shu'bah, and Jābir.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. 'Urwah is Ibn Abī Al-Ja'd Al-Bāriqī, and they say he is 'Urwah bin Al-Ja'd. Ahmad bin Hanbal said: "The *Fiqh* of this *Hadīth* is that *Jihād* is with every *Imām* until the Day of Judgement."

تخريج: وأخرجه مسلم، الإمارة، باب فضيلة الخيل وأن الخير معقود بنواصيها، ح:١٨٧٣ من حديث حصين به * وفي الباب عن ابن عمر [البخاري، ح:٢٨٤٩ ومسلم، ح:١٨٧١] وأبي سعيد [أحمد:٣/ ٣٩] وجرير [مسلم، ح:١٨٧٢] وأبي هريرة [تقدم:١٦٣٦] وأسماء بنت يزيد [أحمد:٥/ ٤٥٥، ٤٥٨] وعبد بن حميد، ح:١٥٨٣] والمغيرة بن شعبة [الطبراني في الكبير: ٢٠/ ٤٣١، ح:١٠٤٧] وجابر [أحمد:٣/ ٣٥٢].

(المعجم ٢٠) - بَابُ [مَا جَاءَ] مَا يُسْتَحَبُّ مِنَ الْخَيْلِ (التحفة ٤٦)

Chapter 20. (What Has Been Related) About What Is Recommend Regarding Horses

١٦٩٥ - **حَدَّثَنَا** عَبْدُ اللهِ بْنُ الصَّبَّاحِ الهَاشِمِيُّ البَصْرِيُّ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ: أَخْبَرَنَا شَيْبَانُ هُوَ ابْنُ عَبْدِ الرَّحْمٰنِ: حَدَّثَنَا عِيسَى بْنُ عَلِيِّ بْنِ عَبْدِ اللهِ [بْنِ عَبَّاسٍ] عَنْ أَبِيهِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «يُمْنُ الْخَيْلِ فِي الشُّقْرِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ شَيْبَانَ.

1695. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "The blessing of the horse is in its redness." (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*, we do not know of it except from this route, from the narration of Shaibān.

تخريج: **[إسناده حسن]** وأخرجه أبو داود، الجهاد، باب: فيما يستحب من ألوان الخيل، ح:٢٥٤٥ من حديث شيبان به.

Comments:

Shuqr (in Arabic, the plural of *Ashqar*) means pure red. Other qualifying words mean as follows: *Ad-ham*: black; *Aqraḥ*: with black spot on the forehead; *Artham*: white on the upper lip, and according to some, whose nose is white; *Al-Aqraḥ Al-Muhajjal*: with some white on all the four legs; and *Ṭalq Al-Yamīn*: the one with no white on the right leg; and *Kumait*: red with black on its mane and ears. And some say it is merely a color that is reddish black — as this is the case when the term does not apply to horses.

1696. Abū Qatādah narrated that the Prophet ﷺ said: "The best horse is the black one with a spot on the face, and white on the upper lip. Then the one with some white on his lower legs, except for the right. So if it is not black, then the *Kumait* (red one with black on its ears and its mane) with these markings."[1] (***Ḥasan***)

١٦٩٦ - حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ: أَخْبَرَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ: أَخْبَرَنَا ابْنُ لَهِيعَةَ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عَلِيِّ بْنِ رَبَاحٍ، عَنْ أَبِي قَتَادَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «خَيْرُ الْخَيْلِ الأَدْهَمُ الأَقْرَحُ الأَرْثَمُ، ثُمَّ الأَقْرَحُ المُحَجَّلُ طَلْقُ اليَمِينِ، فَإِنْ لَمْ يَكُنْ أَدْهَمَ فَكُمَيْتٌ عَلَى هٰذِهِ الشِّيَةِ».

تخريج: [حسن] وأخرجه ابن ماجه، الجهاد، باب ارتباط الخيل في سبيل الله، ح:٢٧٨٩ من حديث يزيد بن أبي حبيب به وانظر الحديث الآتي.

1697. (Another chain) with similar in meaning.(***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*.

١٦٩٧ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا وَهْبُ بْنُ جَرِيرٍ: حَدَّثَنَا أَبِي عَنْ يَحْيَى بْنِ أَيُّوبَ، عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ [بِهٰذَا الإِسْنَادِ] نَحْوَهُ بِمَعْنَاهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، أيضًا، ح:٢٧٨٩ عن محمد بن بشار به وصححه ابن حبان، ح:١٦٣٣ والحاكم:٢/ ٩٢ ووافقه الذهبي وللحديث طرق أخرى.

Chapter 21. (What Has Been Related) About What Is Disliked In Horses

(المعجم ٢١) - بَابُ مَا [جَاءَ مَا] يُكْرَهُ مِنَ الْخَيْلِ (التحفة ٤٧)

1698. Abū Hurairah narrated that

١٦٩٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا

[1] There are various definitions of the Arabic terms in this *Ḥadīth*. See *Tuḥfat Al-Aḥwadhī*, and "these markings" refers to the previously mentioned markings.

يَحْيى بْنُ سَعِيدٍ: حَدَّثَنَا سُفْيَانُ: حَدَّثَنَا سَلْمُ ابْنُ عَبْدِ الرَّحْمٰنِ [النَّخَعِيُّ] عَنْ أَبِي زُرْعَةَ بْنِ عَمْرِو بْنِ جَرِيرٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ أَنَّهُ كَرِهَ الشِّكَالَ فِي الْخَيْلِ.

the Prophet ﷺ disliked Shikāl[1] in horses. (*Sahīh*)

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رَوَاهُ شُعْبَةُ عَنْ عَبْدِ اللهِ بْنِ يَزِيدَ الْخَثْعَمِيِّ، عَنْ أَبِي زُرْعَةَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ. وأَبُو زُرْعَةَ بْنُ عَمْرِو بْنِ جَرِيرٍ اسْمُهُ هَرِمٌ.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. Shu'bah reported similarly from 'Abdullāh bin Yazīd Al-Khath'amī, from Abū Zur'ah (one of the narrators in the chain of this *Hadīth*), from Abū Hurairah, from the Prophet ﷺ. Abū Zur'ah bin 'Amr bin Jarīr's name is Harim.

حَدَّثَنَا مُحَمَّدُ بْنُ حُمَيْدٍ الرَّازِيُّ: حَدَّثَنَا جَرِيرٌ عَنْ عُمَارَةَ بْنِ الْقَعْقَاعِ قَالَ: قَالَ لِي إِبْرَاهِيمُ النَّخَعِيُّ: إذا حَدَّثْتَنِي فَحَدِّثْنِي عَنْ أَبِي زُرْعَةَ فَإِنَّهُ حَدَّثَنِي مَرَّةً بِحَدِيثٍ ثُمَّ سَأَلْتُهُ بَعْدَ ذَلِكَ بِسِنِينَ فما خَرَمَ مِنْهُ حَرْفًا.

Muhammad bin Humaid Ar-Rāzī narrated to us (he said): "Jarīr narrated to us from 'Umārah bin Al-Qa'qā' who said: 'Ibrāhīm An-Nakha'ī said to me: "When you narrate from me, then narrate from me from Abū Zur'ah, for one time he narrated a *Hadīth* to me, then I asked him about it two years later, and he did not leave a letter out of it."

تخريج: وأخرجه مسلم، الإمارة، باب ما يكره من صفات الخيل، ح:١٨٧٥ من حديث سفيان الثوري به * وقول إبراهيم النخعي: رواه البخاري في التاريخ الكبير:٨/ ٢٤٣، ٢٤٤ من حديث جرير بن عبدالحميد به وهو صحيح عنه، محمد بن حميد، تابعه زهير بن حرب.

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي الرِّهَانِ [وَالسَّبَقِ] (التحفة ٤٨)

Chapter 22. What Has Been Related About Contests (And Racing)

١٦٩٩ - حَدَّثَنَا مُحَمَّدُ بْنُ الْوَزِيرِ [الْوَاسِطِيُّ]: حَدَّثَنَا إِسْحَاقُ بْنُ يُوسُفَ الْأَزْرَقُ عَنْ سُفْيَانَ، عَنْ عَبْدِ اللهِ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ أَجْرَى الْمُضَمَّرَ مِنَ الْخَيْلِ مِنَ الْحَفْيَاءِ إِلَى ثَنِيَّةِ الْوَدَاعِ وبَيْنَهُمَا سِتَّةُ أَمْيَالٍ، وما لَمْ يُضَمَّرِ مِنَ

1699. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ arranged for the *Mudammar* among horses to race from Al-Hafyā' to Thaniyyah Al-Wādā', between which was a distance of six miles. And for whatever horse was not among the *Mudammar*, they raced from Thaniyah Al-Wādā' to the

[1] Part or all of either the right or left front leg is white, and for the many different opinions see *Tuhfat Al-Ahwadhī*.

Masjid of Banū Zuraiq, between which was a distance of a mile. I was among those who raced, and my horse jumped along with me over a wall." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Hurairah, Jābir, Anas, and 'Āishah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* as a narration of Ath-Thawrī.

الْخَيْلِ مِنْ ثَنِيَّةِ الْوَادَعِ إِلَى مَسْجِدِ بَنِي زُرَيْق وَبَيْنَهُمَا مِيلٌ وكُنْتُ فِيمَنْ أَجْرَى، فَوَثَبَ بِي فَرَسِي جِدَارًا.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وجَابِرٍ، وَأَنَسٍ، وعائِشَةَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ الثَّوْرِيِّ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب السبق بين الخيل، ح:٢٨٦٨ من حديث سفيان الثوري ومسلم، ح:١٨٧٠ من حديث عبيدالله بن عمر به * وفي الباب عن أبي هريرة، [يأتي:١٧٠٠] وجابر [الطبراني في الأوسط:١٠/ ٢١٥، ح:٩٤٧٢] وأنس [البخاري، ح:٢٨٧١، ٢٨٧٢، ٦٥٠١] وعائشة [ابن ماجه، ح:١٩٧٩].

Comments:

Muḍammar in Arabic means a trained horse that is richly fed and allowed to grow fat and strong. Then, gradually, its supply of food is reduced and it is confined to a room so that it reduces its weight and runs very fast.

1700. Abū Hurairah narrated that the Prophet ﷺ said: "No stake is acceptable except in archery, racing a camel, and racing a horse." (***Ḥasan***)

١٧٠٠ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنِ ابْنِ أَبِي ذِئْبٍ، عَنْ نَافِعِ بْنِ أَبِي نَافِعٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «لَا سَبَقَ إِلَّا فِي نَصْلٍ أَوْ خُفٍّ أَوْ حَافِرٍ».

تخريج: [إسناده حسن] وأخرجه أبو داود، الجهاد، باب: في السبق، ح:٢٥٧٤ والنسائي، ح:٣٦١٥ من حديث محمد بن عبدالرحمن بن أبي ذئب به وصححه ابن حبان، ح:١٦٣٨ وللحديث طرق أخرى.

Comments:

The *Ḥadīth* confirms that stake and racing are only allowed in military-related rides and weaponry. (*Tuḥfat Al-Aḥwadhī*, v.3, p.31).

Chapter 23. What Has Been Related About It Being Disliked To Mate A Donkey With A Horse

(المعجم ٢٣) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَنْ يُنْزَى الْحُمُرُ عَلَى الْخَيْلِ (التحفة ٤٩)

1701. Ibn 'Abbās narrated: "The Messenger of Allāh ﷺ was a slave (of Allāh), who would order as he had been ordered to. He did not

١٧٠١ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا مُوسَى بْنُ سَالِمٍ أَبُو جَهْضَمٍ عَنْ عَبْدِ اللهِ بْنِ عُبَيْدِ اللهِ بْنِ

عَبَّاسٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: كَانَ رَسُولُ اللهِ ﷺ عَبْدًا مَأْمُورًا ما اخْتَصَّنَا دُونَ النَّاسِ بِشَيْءٍ إِلَّا بِثَلاثٍ: أَمَرَنَا أَنْ نُسْبِغَ الْوُضُوءَ، وأَنْ لَا نَأْكُلَ الصَّدَقَةَ، وأَنْ لَا نُنْزِيَ حِمَارًا عَلَى فَرَسٍ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عَلِيٍّ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَرَوَى سُفْيَانُ الثَّوْرِيُّ عَنْ أَبِي جَهْضَمٍ هٰذَا فَقَالَ: عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ عَبَّاسٍ، عَنِ ابْنِ عَبَّاسٍ. [قَالَ:] وسَمِعْتُ مُحَمَّدًا يَقُولُ: حَدِيثُ الثَّوْرِيِّ غَيْرُ مَحْفُوظٍ، وَوَهِمَ فِيهِ الثَّوْرِيُّ، والصَّحِيحُ ما رَوَى إِسْمَاعِيلُ ابْنُ عُلَيَّةَ وعَبْدُ الوَارِثِ بْنُ سَعِيدٍ عَنْ أَبِي جَهْضَمٍ، عَنْ عَبْدِ اللهِ بْنِ عُبَيْدِ اللهِ بْنِ عَبَّاسٍ، عَنِ ابْنِ عَبَّاسٍ.

give an order to us[1] instead of the people regarding anything except for three: He ordered us that we make our *Wuḍū'* well (*Isbāgh*), that we not eat from charity, and that we not mate a donkey with a horse." (***Hasan***)

[Abū 'Eīsā said:] There is something on this topic from 'Alī.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

Sufyān Ath-Thawrī reported this from Abū Jahḍam, who said: "From 'Ubaidullāh bin 'Abdullāh bin 'Abbās, from Ibn 'Abbās." [He said] I heard Muḥammad saying: "The narration of Ath-Thawrī is not preserved. Ath-Thawrī made a mistake in it. What is correct is what Ismā'īl bin 'Ulaiyyah and 'Abul-Wārith bin Sa'eed reported from Abū Jahḍam, from 'Abdullāh bin 'Ubaidullāh bin 'Abbās, from Ibn 'Abbās."

تخريج: [إسناده حسن] وأخرجه أبو داود، الصلاة، باب قدر القراءة في صلاة الظهر والعصر، ح:٨٠٨ والنسائي، ح:١٤١ وابن ماجه، ح:٤٢٦ من حديث أبي جهضم موسى بن سالم به وللحديث طرق أخرى * وفي الباب عن علي [أبو داود، ح:٢٥٦٥ والنسائي، ح:٣٦١٠].

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي الاسْتِفْتَاحِ بِصَعَالِيكِ الْمُسْلِمِينَ (التحفة ٥٠)

24. Chapter: What Has Been Related About Seeking Assistance (From Allāh) By The Destitute Muslims

١٧٠٢ - حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدِ [بْنِ مُوسَى]: حَدَّثَنَا [عَبْدُ اللهِ] بْنُ الْمُبَارَكِ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ يَزِيدَ بْنِ جَابِرٍ:

1702. Abū Ad-Dardā' narrated that he heard the Prophet ﷺ saying: "Seek your weak for me. For indeed your sustenance and aid is only by your weak."[2] (***Ṣaḥīḥ***)

[1] Meaning his relatives.

[2] The meaning of this *Ḥadīth* is: 'Bring the poor and downtrodden people to me so that they can supplicate to Allāh. Because your provisions and aid against your enemy is in relation to your kind treatment to them and their supplications, due to their lack of attachment to worldly matters.' See *'Awn Al-Ma'būd* and *Tuḥfat Al-Aḥwadhī*.

حَدَّثَني زَيْدُ بْنُ أَرْطَاةَ عَنْ جُبَيْرِ بْنِ نُفَيْرٍ، عَنْ أَبِي الدَّرْدَاءِ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «ابْغُونِي في ضُعَفَائِكُمْ، فَإِنَّمَا تُرْزَقُونَ وَتُنْصَرُونَ بِضُعَفَائِكُمْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الجهاد، باب: في الانتصار برذل الخيل والضعفة، ح:٢٥٩٤ والنسائي، ح:٣١٨١ من حديث عبدالرحمن بن يزيد بن جابر به وصححه ابن حبان، ح:١٦٢٠ والحاكم:٢/ ١٤٥.

Comments:

'Weak and downtrodden' are those that, although less privileged in material prosperity and worldly glory, are honorable to Allāh thanks to the strength of their faith and the purity of their hearts. When they pray, they pray with full sincerity for the victory of the believers. Allāh, therefore, accepts their sincere petitions and supplications and grants victory to the Muslims, that brings in its wake the spoils of war, which has been made the sustenance of the believers.

Chapter 25. What Has Been Related About Bells On Horses (Being Disliked)

(المعجم ٢٥) - بَابُ مَا جَاءَ فِي [كَرَاهِيَةِ] الْأَجْرَاسِ عَلَى الْخَيْلِ (التحفة ٥١)

١٧٠٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْعَزِيزِ ابْنُ مُحَمَّدٍ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا تَصْحَبُ الْمَلَائِكَةُ رُفْقَةً فِيهَا كَلْبٌ وَلَا جَرَسٌ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عُمَرَ، وعائِشَةَ، وأُمِّ حَبِيبَةَ، وأُمِّ سَلَمَةَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

1703. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The angels do not accompany a group among whom there is a dog or a bell." ***(Ṣaḥīḥ)***

[Abū 'Eīsā said:] There are narrations on this topic from Ibn 'Umar, 'Āishah, Umm Ḥabībah, and Umm Salamah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: وأخرجه مسلم، اللباس والزينة، باب كراهة الكلب والجرس في السفر، ح:٢١١٣ عن قتيبة به * وفي الباب عن عمر [أبو داود، ح:٤٢٣٠] وعائشة [أبو داود، ح:٤٢٣١] وأم حبيبة [أبو داود، ح:٢٥٥٤] وأم سلمة [النسائي:٨/ ١٨٠، ح:٥٢٢٤].

Comments:

Keeping the 'prohibited' dog is not permitted. Also prohibited is tying bells

around the necks of the animals, because the sound of the bell is the sound of *Shaitān*. And the angels of mercy do not enter the places inhabited by *Shaitān*.

Chapter 26. (What Has Been Related About) Who Is Placed In Charge During War

(المعجم ٢٦) - بَابُ [مَا جَاءَ] مَنْ يُسْتَعْمَلُ عَلَى الْحَرْبِ (التحفة ٥٢)

1704. Al-Barā' narrated: "The Prophet ﷺ sent two armies, placing 'Alī bin Abī Ṭālib as the commander of one of them, and Khālid bin Al-Walīd over the other. He said: 'When there is fighting, then 'Alī (is in command).'"[1] He said: "So 'Alī conquered a fortress and took a slave girl. Khālid [bin Al-Walīd] wrote a letter and sent me with it to the Prophet ﷺ, to speak against him for it. So I arrived to the Prophet ﷺ to read the letter. The color of his face changed, then he said: 'What do you think about a man who loves Allāh and His Messenger, and Allāh and His Messenger love him?'" He said: "I said: 'I seek refuge from angering Allāh and angering His Messenger, I am only the messenger.' So he was silent." (*Da'īf*)

١٧٠٤ - حَدَّثَنَا عَبْدُ اللهِ بْنُ أَبِي زِيَادٍ: حَدَّثَنَا الْأَحْوَصُ بْنُ جَوَّابٍ أَبُو الْجَوَّابِ عَنْ يُونُسَ بْنِ أَبِي إِسْحَاقَ، عَنْ أَبِي إِسْحَاقَ، عَنِ الْبَرَاءِ: أَنَّ النَّبِيَّ ﷺ بَعَثَ جَيْشَيْنِ وَأَمَّرَ عَلَى أَحَدِهِمَا عَلِيَّ بْنَ أَبِي طَالِبٍ، وعَلَى الآخَرِ خَالِدَ بْنَ الوَلِيدِ، فَقَالَ: «إِذَا كَانَ القِتَالُ فَعَلِيٌّ». قالَ: فافْتَتَحَ عَلِيٌّ حِصْنًا فَأَخَذَ مِنْهُ جَارِيَةً، فَكَتَبَ مَعِي خَالِدُ [بْنُ الوَلِيدِ] إِلَى النَّبِيِّ ﷺ يَشِي بِهِ، فَقَدِمْتُ عَلَى النَّبِيِّ ﷺ فَقَرَأَ الكِتَابَ فَتَغَيَّرَ لَوْنُهُ ثُمَّ قَالَ: «ما تَرَى في رَجُلٍ يُحِبُّ اللهَ وَرَسُولَهُ ويُحِبُّهُ اللهُ وَرَسُولُهُ؟» قَالَ: قُلْتُ: أَعُوذُ باللهِ مِنْ غَضَبِ اللهِ وَغَضَبِ رَسُولِهِ وإِنَّمَا أَنَا رَسُولٌ، فَسَكَتَ.

[Abū 'Eīsā said:] There is something about this from Ibn 'Umar. This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except from the narration of Al-Aḥwaṣ bin Jawwāb. And his saying: "To speak against him for that" refers to *An-Namīmah*.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ الْأَحْوَصِ بْنِ جَوَّابٍ. قَوْلُهُ: يَشِي بِهِ يَعْنِي النَّمِيمَةَ.

تخريج: [إسناده ضعيف] * أبو إسحاق السبيعي مدلس وعنعن * وفي الباب عن ابن عمر [يأتي: ٣٨١٦] يعني فيمن يستعمل على الحرب.

[1] That is, if fighting occurs while the two armies are still together. See *Tuḥfat Al-Aḥwadhī*.

Comments:

The *Ḥadīth* contains the golden rule that the army command must be placed in the hands of a pious and God-fearing individual who loves Allāh and His Messenger, and would be loved by Allāh and His Messenger ﷺ for the virtuous traits of his character, which quality also endears him to the people. War, moreover, must be fought under one commander, although in the transitory phase more than one unit commander may be appointed for facility of administration.

Chapter 27. What Has Been Related About The *Imām*

(المعجم ٢٧) - بَابُ مَا جَاءَ فِي الْإِمَامِ

(التحفة ٥٣)

1705. Ibn 'Umar narrated that the Prophet ﷺ said: "Indeed each of you is a shepherd and all of you will be questioned regarding your flock. The commander who is in authority over the Muslims is responsible and he will be questioned regarding his responsibility. The man is responsible over the inhabitants of his house and he is the one who will be questioned about them. The wife is responsible in her husband's house and she will be questioned about it. The slave is responsible regarding his master's property, and he will be questioned about it. Indeed each of you is a shepherd and each of you will be questioned about his flock." (*Ṣaḥīḥ*)

١٧٠٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «أَلَا كُلُّكُمْ رَاعٍ وكُلُّكُم مَسْئُولٌ عَنْ رَعِيَّتِهِ: فَالأَمِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ وَمَسْئُولٌ عَنْ رَعِيَّتِهِ، والرَّجُلُ رَاعٍ عَلَى أَهْلِ بَيْتِهِ وَهُوَ مَسْئُولٌ عَنْهُمْ، والمَرْأَةُ رَاعِيَةٌ في بَيْتِ بَعْلِهَا وهِيَ مَسْئُولَةٌ عَنْهُ، والْعَبْدُ رَاعٍ عَلَى مَالِ سَيِّدِهِ وهُوَ مَسْئُولٌ عَنْهُ، أَلَا فَكُلُّكُمْ رَاعٍ وكُلُّكُم مَسْئُولٌ عَنْ رَعِيَّتِهِ».

[Abū 'Eīsā said:] There are narrations on this topic from Abū Hurairah, Anas, and Abū Mūsā. The *Ḥadīth* of Abū Mūsā is not preserved, and the *Ḥadīth* of Anas is not preserved. [And the *Ḥadīth* of Ibn 'Umar is a *Ḥasan Ṣaḥīḥ Ḥadīth*.]

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وأَنَسٍ، وَأَبِي مُوسَى، [و]حَدِيثُ أَبِي مُوسىٰ غَيْرُ مَحْفُوظٍ، وحَدِيثُ أَنَسٍ غَيْرُ مَحْفُوظٍ [وحَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ].

Ibrāhim bin Bash-shār Ar-Ramādī reported it from Sufyān bin 'Uyainah, from Buraid bin 'Abdullāh bin Abū Burdah, from Abū Burdah, from Abū Mūsā, from

[قَالَ:] وَرَوَاهُ إِبْرَاهِيمُ بْنُ بَشَّارٍ الرَّمَادِيُّ عَنْ سُفْيَانَ بْنِ عُيَيْنَةَ، عَنْ بُرَيْدِ بْنِ عَبْدِ اللهِ بْنِ أَبِي بُرْدَةَ، عَنْ أَبِي بُرْدَةَ، عَنْ أَبِي مُوسَى عَنِ النَّبِيِّ ﷺ أَخْبَرَنِي بِذٰلِكَ مُحَمَّدٌ عَنْ إِبْرَاهِيمَ ابْنِ بَشَّارٍ [الرَّمَادِيِّ]. قَالَ مُحَمَّدٌ: ورَوَى غَيْرُ وَاحِدٍ عَنْ سُفْيَانَ، عَنْ بُرَيْدِ بْنِ أَبِي بُرْدَةَ

the Prophet ﷺ.
Muḥammad informed me of that, from Ibrāhīm bin Bash-shār [Ar-Ramādī]. Muḥammad said: "More than one has reported it from Sufyān, from Buraid bin Abū Burdah [from Abū Burdah,] from the Prophet ﷺ in *Mursal* form. This is more correct." Muḥammad said: "Isḥāq bin Ibrāhīm reported from Mu'ādh bin Hishām, from his father, from Qatādah, from Anas, from the Prophet ﷺ who said: 'Indeed Allāh will question everyone who is responsible about his charge.'" I heard Muḥammad saying: "This is not preserved. It is only correct from Mu'ādh bin Hishām from his father, from Qatādah, from Al-Ḥasan, from the Prophet ﷺ, in *Mursal* form."

[عَنْ أَبِي بُرْدَةَ] عَنِ النَّبِيِّ ﷺ مُرْسَلًا . وهٰذَا أَصَحُّ. قَالَ مُحَمَّدٌ: وَرَوَى إِسْحَاقُ بْنُ إِبْرَاهِيمَ عَنْ مُعَاذِ بْنِ هِشَامٍ، عَنْ أَبِيهِ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ عَنِ النَّبِيِّ ﷺ: «إِنَّ اللهَ سَائِلٌ كُلَّ رَاعٍ عَمَّا اسْتَرْعَاهُ» [قَالَ:] سَمِعْتُ مُحَمَّدًا يَقُولُ: هٰذَا غَيْرُ مَحْفُوظٍ، وإِنَّمَا الصَّحِيحُ عَنْ مُعَاذِ بْنِ هِشَامٍ، عَنْ أَبِيهِ، عَنْ قَتَادَةَ، عَنِ الْحَسَنِ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

تخريج: متفق عليه، وأخرجه مسلم، الإمارة، باب فضيلة الأمير العادل وعقوبة الجائر . . . إلخ، ح:١٨٢٩ عن قتيبة والبخاري، ح:٥١٨٨ من حديث نافع به ❊ وفي الباب عن أبي هريرة [الطبراني في الأوسط:٥/ ٤٧٩، ح:٤٩١٣، ٩/ ٣٢٥، ٣٢٦، ح:٨٧٠٨] وأنس [يأتي في نفس الباب] وأبي موسى [يأتي في نفس الباب].

Comments:

Each person must be ready for questioning in the Hereafter according to his position or status, and the extent of his responsibility as well as according to the number of people placed under his charge. And, obviously, the greater the burden of the responsibility a person holds the more extensive shall be his accountability.

Chapter 28. What Has Been Related About Obeying The *Imām*

(المعجم ٢٨) - **بَابُ مَا جَاءَ فِي طَاعَةِ الْإِمَامِ** (التحفة ٥٤)

1706. Umm Al-Ḥuṣain Al-Aḥmasiyyah said: "I heard the Messenger of Allāh ﷺ delivering a *Khuṭbah* during the Farewell *Ḥajj*, and he was wearing a *Burd* which he had wrapped from under his

١٧٠٦ - حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى [النَّيسَابُورِيُّ]: حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ: حَدَّثَنَا يُونُسُ بْنُ أَبِي إِسْحَاقَ عَنِ الْعَيْزَارِ بْنِ حُرَيْثٍ، عَنْ أُمِّ الْحُصَيْنِ الْأَحْمَسِيَّةِ قَالَتْ:

armpit." She said: "I was looking at the muscle of his upper arm quivering and I heard him saying: 'O you people! Have *Taqwa* of Allāh. If a mutilated Ethiopian slave is put in command over you, then listen to him and obey him, as long as he upholds the Book of Allāh among you.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from Abū Hurairah and 'Irbāḍ bin Sāriyah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, it has been reported through other routes from Umm Ḥuṣain.

سَمِعْتُ رَسُولَ اللهِ ﷺ يَخْطُبُ فِي حَجَّةِ الْوَدَاعِ وعَلَيْهِ بُرْدٌ قَدِ الْتَفَعَ بِهِ مِنْ تَحْتِ إِبْطِهِ قَالَتْ: فَأَنَا أَنْظُرُ إِلَى عَضَلَةِ عَضُدِهِ تَرْتَجُّ سَمِعْتُهُ يَقُولُ: «يَا أَيُّهَا النَّاسُ، اتَّقُو اللهَ وإِنْ أُمِّرَ عَلَيْكُمْ عَبْدٌ حَبَشِيٌّ مُجَدَّعٌ فاسْمَعُوا لَهُ وأَطِيعُوا ما أَقَامَ لَكُمْ كِتَابَ اللهِ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ، وعِرْبَاضِ بْنِ سَارِيَةَ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ، عَنْ أُمِّ حُصَيْنٍ.

تخريج: [صحيح] وأخرجه أحمد:٦/ ٤٠٢ من حديث يونس به ورواه مسلم، ح:١٢٩٨ من حديث أم الحصين * وفي الباب عن أبي هريرة [البخاري، ح:٧١٣٧ ومسلم، ح:١٨٣٥] وعرباض بن سارية [يأتي:٢٦٧٦].

Comments:

The *Ḥadīth* confirms that a ruler or the supreme authority of a country can appoint his governors and other high officials at his discretion. It is not essential that a subordinate appointee be a free person or belong to the clan of the Quraish. Thus, whoever is appointed by him in that capacity, it is incumbent that we give him our obedience in all his actions in the light of the Qur'ān and *Sunnah*. Ugly features or the slavery status of the appointee shall not be a valid excuse for opposing him.

Chapter 29. What Has Been Related About: No Obedience To The Created In Disobedience To The Creator

(المعجم ٢٩) - بَابُ مَا جَاءَ لَا طَاعَةَ لِمَخْلُوقٍ فِي مَعْصِيَةِ الْخَالِقِ (التحفة ٥٥)

1707. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Hearing and obeying is required from every Muslim man – in what he likes and what he dislikes – as long as he is not ordered with disobedience. If he is ordered with disobedience, then no hearing or obeying is required of him." (***Ṣaḥīḥ***)

١٧٠٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «السَّمْعُ والطَّاعَةُ عَلَى الْمَرْءِ الْمُسْلِمِ فِيمَا أَحَبَّ وكَرِهَ ما لَمْ يُؤْمَرْ بِمَعْصِيَةٍ، فَإِنْ أُمِرَ بِمَعْصِيَةٍ فَلَا سَمْعَ عَلَيْهِ ولَا طَاعَةَ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عَلِيٍّ،

[Abū 'Eīsā said:] There are narrations on this topic from 'Alī, 'Imrān bin Ḥuṣain, and Al-Ḥakam bin 'Amr Al-Ghifārī.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

وعِمْرَانَ بْنِ حُصَيْنٍ، والحَكَمِ بْنِ عَمْرٍو الغِفَارِيِّ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الإمارة، باب وجوب طاعة الأمراء في غير معصية، وتحريمها في المعصية، ح:١٨٣٩ عن قتيبة به * وفي الباب عن علي [البخاري، ح:٤٣٤٠، ٧١٤٥ ومسلم، ح:١٨٤٠] وعمران بن حصين [أحمد:٤/ ٤٢٦، ٤٢٧] الحكم بن عمرو الغفاري [أحمد:٥/ ٦٦].

Comments:

The real Lord, King and Ruler is only Allāh. And since the temporal Muslim ruler also draws his authority from Him Who has commissioned him to implement His commands, we are commanded to hear and obey his orders, regardless of whether we like them or not. However, in case the ruler orders something that flouts the Commandments of Allāh and His Messenger, then we are not allowed to obey him. The reason being that, by issuing such orders, he has made himself a rebel against the Supreme Authority. Therefore, we are not allowed to obey such an order issued by him.

Chapter 30. What Has Been Related About The Dislike Of Encouraging Beasts To Fight One Another [And Striking Them Or Branding Them On The Face]

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ التَّحْرِيشِ بَيْنَ الْبَهَائِمِ، [وَالضَّرْبِ وَالْوَسْمِ فِي الْوَجْهِ] (التحفة ٥٦)

1708. Abū Yaḥya reported from Mujāhid from Ibn 'Abbās who said: "The Messenger of Allāh ﷺ prohibited instigating fights between beasts." (***Ḍa'īf***)

١٧٠٨ - حَدَّثَنَا أَبُو كُرَيْبٍ: حَدَّثَنَا يَحْيَى ابْنُ آدَمَ عَنْ قُطْبَةَ بْنِ عَبْدِ العَزِيزِ، عَنِ الْأَعْمَشِ، عَنْ أَبِي يَحْيَى، عَنْ مُجَاهِدٍ، عَنِ ابْنِ عَبَّاسٍ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ التَّحرِيشِ بَيْنَ البَهَائِمِ.

تخريج: [**إسناده ضعيف**] وأخرجه أبو داود، الجهاد، باب: في التحريش بين البهائم، ح:٢٥٦٢ عن أبي كريب به * الأعمش عنعن وأبو يحيى لين (نيل المقصود، ح:٥٣٨) وللحديث طريق آخر فيه ليث بن أبي سليم وهو ضعيف.

Comments:

Instigating beasts to fight each other is an aimless pastime and a sinful act. It is not only a sheer waste of time but also a means of exposing the animals to unnecessary misery and pain. It is, moreover, used as a handy ploy for betting and gambling.

1709. Abū Yaḥya reported from Mujāhid: "The Prophet ﷺ

١٧٠٩ - حَدَّثَنَا مُحَمَّدُ بْنُ المُثَنَّى: حَدَّثَنَا

عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ عَنْ سُفْيَانَ، عَنِ الْأَعْمَشِ، عَنْ أَبِي يَحْيَى، عَنْ مُجَاهِدٍ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ التَّحْرِيشِ بَيْنَ الْبَهَائِمِ. ولَمْ يَذْكُرْ فِيهِ عَنِ ابْنِ عَبَّاسٍ. ويُقَالُ هٰذَا أَصَحُّ مِنْ حَدِيثِ قُطْبَةَ، وَرَوَى شَرِيكٌ هٰذَا الحَدِيثَ عَنِ الْأَعْمَشِ، عَنْ مُجَاهِدٍ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ ولَمْ يَذْكُرْ فِيهِ عَنْ أَبِي يَحْيَى [حَدَّثَنَا بِذٰلِكَ أَبُو كُرَيْبٍ عَنْ يَحْيى ابْنِ آدَمَ، عَنْ شَرِيكٍ] وَرَوَى أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ مُجَاهِدٍ، عَنِ النَّبِيِّ ﷺ نَحْوَهُ [وأَبُو يَحْيى هُوَ القَتَّاتُ الْكُوفِيُّ ويُقَالُ اسْمُهُ زَاذَانُ].

prohibited instigating fights between beasts." And he did not mention "from Ibn 'Abbās" in it. (*Ḍa'īf*)

It is said that this is more correct than the (previous) narration of Quṭbah. Sharīk narrated this *Ḥadīth* from Al-A'mash, from Mujāhid, from Ibn 'Abbās, from the Prophet ﷺ similarly, but he did not mention "from Abū Yaḥya" in it. [This was narrated to us by Abū Kuraib from Yaḥya bin Ādam, from Sharīk]. Abū Mu'āwiyah reported it from Al-A'mash, from Mujāhid, from the Prophet ﷺ similarly. [And Abū Yaḥya is Al-Qattāt Al-Kūfī, and it is said that his name was Zādhān].

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ طَلْحَةَ، وَجَابِرٍ، وأَبِي سَعِيدٍ، وعِكْرَاشِ بْنِ ذُوَيْبٍ.

[Abū 'Eīsā said:] There are narrations on this topic from Ṭalḥah, Jābir, Abū Sa'eed, and 'Ikrāsh bin Dhuwaib.

تخريج: [إسناده ضعيف مرسل] وانظر الحديث السابق * وفي الباب عن طلحة [أبو يعلى:٢/٢١، ح:٦٥١] وجابر [يأتي:١٧١٠] وأبي سعيد [ابن أبي شيبة:٤/٢٦٩، ح:١٩٩٢٢] وعكراش بن ذويب [لعله يشير إلى حديث أبي نعيم في معرفة الصحابة:٤/٢٢٤٠، ح:٥٥٩٥ وأصله عند الترمذي، ح:١٨٤٨.

Chapter 31.

(المعجم ٣١) - **بَابٌ:** (التحفة...)

١٧١٠ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا رَوْحُ [بْنُ عُبَادَةَ] عَنِ ابْنِ جُرَيْجٍ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الوَسْمِ في الْوَجْهِ والضَّرْبِ.

1710. Jābir narrated: "The Prophet ﷺ prohibited branding on the face and striking (it)." (*Ṣaḥīḥ*)

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: وأخرجه مسلم، اللباس والزينة، باب النهي عن ضرب الحيوان في وجهه ووسمه فيه، ح:٢١١٦ من حديث ابن جريج به.

Comments:

The face, whether of a man or of an animal, is the centre of attraction. It is, moreover, among the most vulnerable parts of the body. It cannot stand the shock of beating. Striking the animal on the face means disfiguring it and making it look ugly. Branding the face or tattooing it also means the same - torturing the animal and disfiguring it.

Chapter 32. What Has Been Related About The (Age) Of Adulthood For A Man And When He Is To Receive A Salary[1]

(المعجم ٣٢) - بَابُ مَا جَاءَ فِي حَدِّ بُلُوغِ الرَّجُلِ وَمَتَى يُفْرَضُ لَهُ (التحفة ٥٧)

1711. Nāfi' narrated that Ibn 'Umar said: "I was reviewed before the Messenger of Allāh ﷺ in the army, and I was fourteen years old, but he did not accept me. Then I was reviewed before him later in the army while I was fifteen years old, and he accepted me."

Nāfi' said: "I narrated this *Ḥadīth* to 'Umar bin 'Abdul-'Azīz and he said: 'This is the limit that distiguishes between youth and manhood.' Then he wrote to give salaries to whoever reached fifteen years of age."

(Another chain) with similar, but he (Nāfi' said): "Umar [bin 'Abdul-'Azīz] said: 'This is the limit that distinguishes between children and soldiers.'" And he did not mention him writing about the salary. (*Saḥīḥ*)

[Abū 'Eīsā said:] The *Ḥadīth* of Isḥāq bin Yūsuf is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth* as a narration of Sufyān Ath-Thawrī.

١٧١١ - حَدَّثَنَا مُحَمَّدُ بْنُ الْوَزِيرِ الْوَاسِطِيُّ: حَدَّثَنَا إِسْحَاقُ بْنُ يُوسُفَ [الْأَزْرَقُ] عَنْ سُفْيَانَ، عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: عُرِضْتُ عَلَى رَسُولِ اللهِ ﷺ فِي جَيْشٍ وأَنَا ابْنُ أَرْبَعَ عَشْرَةَ فَلَمْ يَقْبَلْنِي، ثُمَّ عُرِضْتُ عَلَيْهِ مِنْ قَابِلٍ فِي جَيْشٍ وأَنَا ابْنُ خَمْسَ عَشْرَةَ فَقَبِلَنِي.

قَالَ نافِعٌ: فَحَدَّثْتُ بِهٰذَا الْحَدِيثِ عُمَرَ بْنَ عَبْدِ الْعَزِيزِ فَقَالَ: هٰذَا حَدُّ ما بَيْنَ الصَّغِيرِ والكَبِيرِ، ثُمَّ كَتَبَ أَنْ يُفْرَضَ لِمَنْ بَلَغَ الْخَمْسَ عَشْرَةَ.

حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عُبَيْدِ اللهِ نَحْوَهُ بِمَعْنَاهُ إِلَّا أَنَّهُ قَالَ: قَالَ عُمَرُ [بْنُ عَبْدِالعَزِيزِ]: هٰذَا حَدُّ ما بَيْنَ الذُّرِّيَّةِ والمُقَاتِلَةِ ولَمْ يَذْكُرْ أَنَّهُ كَتَبَ أَنْ يُفْرَضَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ إِسْحَاقَ بْنِ يُوسُفَ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ سُفْيَانَ الثَّوْرِيِّ.

تخريج: متفق عليه، وأخرجه البخاري، الشهادات، باب بلوغ الصبيان وشهادتهم، ح:٢٦٦٤ ومسلم، ح:١٨٦٨ من حديث عبيدالله بن عمر به.

[1] See no. 1361.

Comments:

When, in the days of the Muslim rulers, *Jihād* was performed as an Islamic duty, the names of war-worthy persons were entered into a military book, and they were given stipends from Public Treasury. On reaching the age of fifteen a person was considered fit for fighting. Discussion about the prescribed limit for the age of responsibility has been included in the Book of *Al-Ahkām* (Judgements), in its Chapter on the Puberty of Man and Woman.

Chapter 33. What Has Been Related About One Who Is Martyred While In Debt

(المعجم ٣٣) - بَابُ مَا جَاءَ فِيمَنْ يُسْتَشْهَدُ وَعَلَيْهِ دَيْنٌ (التحفة ٥٨)

1712. 'Abdullāh bin Abī Qatādah narrated that he heard his father, narrating a *Hadīth*, which he heard from the Messenger of Allāh ﷺ, in which he had stood among them, mentioning to them that *Jihād* in the cause of Allāh and faith in Allāh were the most virtuous of deeds. Then a man stood and said: "O Messenger of Allāh! If I were killed in the cause of Allāh, would my sins be forgiven?" So the Messenger of Allāh ﷺ said: "Yes. If you are killed in Allāh's cause, and you are patient, seeking the reward, advancing, not fleeing." Then the Messenger of Allāh ﷺ said: "What was it that you said?" So he replied: "If I were killed in the cause of Allāh, would my sins be removed (forgiven)?" So the Messenger of Allāh ﷺ said: "Yes. If you are patient, seeking the reward, advancing, not fleeing – except for debt. For Jibrīl said that to me." (***Sahīh***)

[Abū 'Eīsā said:] There are narrations on this topic from Anas, Muhammad bin Jahsh, and Abū Hurairah. This *Hadīth* is *Hasan Sahīh*.

Some of them reported this

١٧١٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ، عَنْ عَبْدِ اللهِ ابْنِ أَبِي قَتَادَةَ، عَنْ أَبِيهِ أَنَّهُ سَمِعَهُ يُحَدِّثُ عَنْ رَسُولِ اللهِ ﷺ: أَنَّهُ قَامَ فِيهِمْ فَذَكَرَ لَهُمْ أَنَّ الْجِهَادَ فِي سَبِيلِ اللهِ وَالإِيمَانَ بِاللهِ أَفْضَلُ الْأَعْمَالِ، فَقَامَ رَجُلٌ فَقَالَ: يَا رَسُولَ اللهِ، أَرَأَيْتَ إِنْ قُتِلْتُ فِي سَبِيلِ اللهِ يُكَفِّرُ عَنِّي خَطَايَايَ؟ فَقَالَ رَسُولُ اللهِ ﷺ: «نَعَمْ إِنْ قُتِلْتَ فِي سَبِيلِ اللهِ وأَنْتَ صَابِرٌ مُحْتَسِبٌ مُقْبِلٌ غَيْرُ مُدْبِرٍ»، ثُمَّ قَالَ رَسُولُ اللهِ ﷺ: «كَيْفَ قُلْتَ؟» قَالَ: أَرَأَيْتَ إِنْ قُتِلْتُ فِي سَبِيلِ اللهِ أَيُكَفِّرُ عَنِّي خَطَايَايَ؟ فَقَالَ رَسُولُ اللهِ ﷺ: «نَعَمْ وأَنْتَ صَابِرٌ مُحْتَسِبٌ مُقْبِلٌ غَيْرُ مُدْبِرٍ إِلَّا الدَّيْنَ، فَإِنَّ جِبْرِيلَ قَالَ لِي ذٰلِكَ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَنَسٍ، ومُحَمَّدِ بْنِ جَحْشٍ، وأَبِي هُرَيْرَةَ.

وهٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

ورَوى بَعْضُهُمْ هٰذَا الحَدِيثَ عَنْ سَعِيدٍ المَقْبُرِيِّ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَ

Hadīth from Sa'eed Al-Maqburī, from Abū Hurairah, from the Prophet ﷺ, similar to this. Yahya bin Sa'eed Al-Anṣārī and more than one narrator reported this from Sa'eed Al-Maqburī from 'Abdullāh bin Abī Qatādah, from his father, from the Prophet ﷺ. This is more correct than the narration of Sa'eed Al-Maqburī from Abū Hurairah.

هٰذَا. ورَوَى يَحْيَى بْنُ سَعِيدٍ الْأَنْصَارِيُّ وغَيْرُ وَاحِدٍ نَحْوَ هٰذَا عَنْ سَعِيدٍ الْمَقْبُرِيِّ، عَنْ عَبْدِ اللهِ بْنِ أَبِي قَتَادَةَ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ. وهٰذَا أَصَحُّ مِنْ حَدِيثِ سَعِيدٍ الْمَقْبُرِيِّ عَنْ أَبِي هُرَيْرَةَ.

تخريج: وأخرجه مسلم، الإمارة، باب من قتل في سبيل الله كفرت خطاياه إلا الدين، ح:١٨٨٥ عن قتيبة به * وفي الباب عن أنس [تقدم:١٦٤٠] ومحمد بن جحش [النسائي، ح:٤٦٨٨] وأبي هريرة [النسائي، ح:٣١٥٧].

Chapter 34. What Has Been Related About Burying The Martyrs

(المعجم ٣٤) - بَابُ مَا جَاءَ فِي دَفْنِ الشُّهَدَاءِ (التحفة ٥٩)

1713. Hishām bin 'Āmir said: "On the Day of Uhud, the wounded complained to the Messenger of Allāh, so he said: 'Dig, and make it wide, and appropriate, and bury two and three in one grave. And advance the one who knew the most Qur'ān.' My father had died so he was placed before two men."[1] (*Sahīh*)

[Abū 'Eīsā said:] There are narrations on this topic from Khabbāb, Jābir, and Anas.

This *Hadīth* is *Hasan Sahīh*.

Sufyān Ath-Thawrī and others reported this *Hadīth* from Ayyūb, from Humaid bin Hilāl, from Hishām bin 'Āmir. And Abū Ad-

١٧١٣ - حَدَّثَنَا أَزْهَرُ بْنُ مَرْوَانَ الْبَصْرِيُّ: حَدَّثَنَا عَبْدُ الْوَارِثِ بْنُ سَعِيدٍ عَنْ أَيُّوبَ، عَنْ حُمَيْدِ بْنِ هِلَالٍ، عَنْ أَبِي الدَّهْمَاءِ، عَنْ هِشَامِ بْنِ عَامِرٍ قَالَ: شُكِيَ إِلَى رَسُولِ اللهِ ﷺ الْجِرَاحَاتُ يَوْمَ أُحُدٍ فَقَالَ: «احْفِرُوا وأَوْسِعُوا وأَحْسِنُوا وادْفِنُوا الاثْنَيْنِ والثَّلَاثَةَ فِي قَبْرٍ وَاحِدٍ وقَدِّمُوا أَكْثَرَهُمْ قُرْآنًا». فَمَاتَ أَبِي فَقُدِّمَ بَيْنَ يَدَيْ رَجُلَيْنِ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ خَبَّابٍ، وجَابِرٍ، وأَنَسٍ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

ورَوَى سُفْيَانُ الثَّوْرِيُّ وغَيْرُهُ هٰذَا الْحَدِيثَ

[1] The complaint came from those who were to dig the graves because they were wounded and there were so many to bury. "And appropriate" either refers to the depth of the grave, or it means, "treat the deceased well" or, "wrap them well" (see nos. 995 & 1016). And "advance" means closest to the direction of the Ka'bah in the niche. See *Tuhfat Al-Ahwadhī*.

Dahmā's (a narrator in the chain) name is Qirfah bin Buhais [or Baihas].

عَنْ أَيُّوبَ، عَنْ حُمَيْدِ بْنِ هِلَالٍ، عَنْ هِشَامِ ابْنِ عَامِرٍ. وأَبُو الدَّهْمَاءِ اسْمُهُ قِرْفَةُ بْنُ بُهَيْسٍ [أَوْ بَيْهَسٍ].

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الجنائز، باب ماجاء في حفر القبر، ح: ١٥٦٠ عن أزهر بن مروان به ورواه أبو داود، ح: ٣٢١٥ من حديث حميد بن هلال، والنسائي، ح: ٢٠١٢ من حديث أيوب السختياني به * وفي الباب عن خباب [أحمد: ٥/ ١١١، ٦/ ٣٩٥ وأصله عند الترمذي، ح: ٩٧٠] وجابر [تقدم: ١٠٣٦] وأنس [تقدم: ١٠٦].

Comments:

Like the martyrs, the number of those injured on the Day of Uhud was also very great and, being deeply wounded themselves, the Companions found it difficult to dig so many graves on that day; hence the query. What the Prophet ﷺ said in reply means that there is no escape from giving burial to all of them. However, you can dig a spacious and appropriate grave for two or three of them, and put the one who excels in the knowledge of the Qur'ān closest to the direction of Ka'bah so that the excellence of the Qur'ān is made manifest.

Chapter 35. What Has Been Related About Consultation

(المعجم ٣٥) - بَابُ مَا جَاءَ فِي الْمَشُورَةِ (التحفة ٦٠)

1714. Abū 'Ubaidah narrated that 'Abdullāh said: "On the Day of Badr when the captives were gathered, the Messenger of Allāh ﷺ said: 'What do you (people) say about these captives?'" Then he mentioned the story in the lengthy *Ḥadīth*. (***Ḍa'īf***)[1]

١٧١٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنِ الْأَعْمَشِ، عَنْ عَمْرِو بْنِ مُرَّةَ، عَنْ أَبِي عُبَيْدَةَ، عَنْ عَبْدِ اللهِ قَالَ: لَمَّا كَانَ يَوْمُ بَدْرٍ وَجِيءَ بِالْأُسَارَى، قَالَ رَسُولُ اللهِ ﷺ: «مَا تَقُولُونَ فِي هٰؤُلَاءِ الْأُسَارَى؟» فَذَكَرَ قِصَّةً فِي هٰذَا الحَدِيثِ طَوِيلَةً.

[Abū 'Eīsā said:] There are narrations on this topic from 'Umar, Abū Ayyūb, Anas, and Abū Hurairah.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عُمَرَ، وأَبِي أَيُّوبَ، وأَنَسٍ، وأَبِي هُرَيْرَةَ.

This *Ḥadīth* is *Ḥasan*, and Abū 'Ubaidah did not hear from his father. It has been reported that Abū Hurairah said: "None was more apt to seek council of his

[و] هٰذَا حَدِيثٌ حَسَنٌ وأَبُو عُبَيْدَةَ لَمْ يَسْمَعْ مِنْ أَبِيهِ.

ويُرْوَى عَنْ أَبِي هُرَيْرَةَ قَالَ: ما رَأَيْتُ أَحَدًا

[1] Meaning this chain of narration, because it is disconnected, while what is mentioned in the text is recorded by *Muslim* and others. This narration appears again, in its complete form, See no. 3084.

Companions than the Messenger of Allāh ﷺ."

أَكْثَرَ مَشُورَةً لِأَصْحَابِهِ مِنْ رَسُولِ اللهِ ﷺ.

تخريج: [إسناده ضعيف لانقطاعه] وأخرجه أحمد: ١/ ٣٨٣، ٣٨٤ عن أبي معاوية الضرير به مطولاً وسيأتي: ٣٠٨٤ * وفي الباب عن عمر [مسلم، ح: ١٧٦٣] وأبي أيوب [لم أجده] وأنس [مسلم، ح: ١٧٧٩] وأبي هريرة [يأتي: ٢٢٦٦، ٢٣٦٩].

Comments:

It was in compliance with the Qur'ānic injunction: "And consult them in the affairs" (3:159) that in all important matters where there was no Revelation from Allāh, the Prophet ﷺ used to consult his close Companions and decide the matters accordingly. In the case of the prisoners of Badr, as well, he consulted his associates and took the decision in the light of that consultation.

Chapter 36. What Has Been Related About Not Ransoming A Captive's Body

(المعجم ٣٦) - بَابُ مَا جَاءَ لَا تُفَادَى جِيفَةُ الْأَسِيرِ (التحفة ٦١)

1715. Ibn 'Abbās said: "The idolaters wanted to purchase the body of a man who was from the idolaters. But the Prophet ﷺ refused to trade with them [for him]." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except from the anrration of Al-Ḥakam. Al-Ḥajjāj bin Arṭāh also reported it from Al-Ḥakam. Aḥmad bin Al-Ḥasan said: "I heard Aḥmad bin Ḥanbal saying: 'Ibn Abī Lailā's narrations are not used as proof.'" Muḥammad bin Ismā'īl said: "Ibn Abī Lailā is truthful, but his correct *Aḥādīth* are not recognizable from his weak ones. And I do not report anything from him." Ibn Abī Lailā is truthful, and a *Faqīh*, the problem is only in the chain.

Naṣr bin 'Alī narrated to us, [he said:] "Abdullāh bin Dāwud narrated to us, from Sufyān Ath-Thawrī who said: 'Our *Fuqahā'* are Ibn Abī Lailā and 'Abdullāh bin Shubrumah.'"

١٧١٥ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو أَحْمَدَ: حَدَّثَنَا سُفْيَانُ عَنِ ابْنِ أَبِي لَيْلَىٰ، عَنِ الْحَكَمِ، عَنْ مِقْسَمٍ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ الْمُشْرِكِينَ أَرَادُوا أَنْ يَشْتَرُوا جَسَدَ رَجُلٍ مِنَ الْمُشْرِكِينَ، فَأَبَى النَّبِيُّ ﷺ أَنْ يَبِيعَهُمْ [إِيَّاهُ].

[قَالَ أَبُو عِيسَى]: هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ الحَكَمِ. وَرَوَاهُ الحَجَّاجُ بْنُ أَرْطَاةَ أَيْضًا عَنِ الحَكَمِ. وقَالَ أَحْمَدُ بْنُ الحَسَنِ سَمِعْتُ أَحْمَدَ بْنَ حَنْبَلٍ يَقُولُ: ابْنُ أَبِي لَيْلَى لَا يُحْتَجُّ بِحَدِيثِهِ قَالَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ: ابْنُ أَبِي لَيْلَى صَدُوقٌ ولَكِنْ لَا يُعْرَفُ صَحِيحُ حَدِيثِهِ مِنْ سَقِيمِهِ ولَا أَرْوِي عَنْهُ شَيْئًا. وابْنُ أَبِي لَيْلَى صَدُوقٌ فَقِيهٌ وإِنَّما يَهِمُ في الإِسْنَادِ.

حَدَّثَنَا نَصْرُ بْنُ عَلِيٍّ [قَالَ]: حَدَّثَنَا عَبْدُ اللهِ بْنُ دَاوُدَ عَنْ سُفْيَانَ الثَّوْرِيِّ قَالَ: فُقَهَاؤُنَا ابْنُ أَبِي لَيْلَى وعَبْدُ اللهِ بْنُ شُبْرُمَةَ.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ١/٣٢٦ من حديث سفيان الثوري به * محمد بن عبدالرحمن بن أبي ليلى ضعيف من جهة سوء حفظه وفيه علل أخرى * قول سفيان الثوري سنده صحيح.

Comments:

Only the things of value are bought and sold. The corpse of an idolater has no worth or value. As such, when Nawfal bin 'Abdullāh bin Mughirah got killed, the Prophet ﷺ refused to accept any ransom money and released his dead body as it was. He even declared it unlawful to trade in dead bodies.

Chapter 37. What Has Been Related About Fleeing From An Advancing Army

(المعجم ٣٧) - بَابُ [مَا جَاءَ فِي الْفِرَارِ مِنَ الزَّحْفِ] (التحفة ٦٢)

1716. Ibn 'Umar said: "The Messenger of Allāh sent us on a military expedition, and the people turned to escape. So we arrived in Al-Madīnah and concealed ourselves in it and we said: 'We are runied.' Then we went to the Messenger of Allāh ﷺ and we said: 'O Messenger of Allāh! We are those who fled.' He said: 'Rather you are *Al- 'Akkārūn* (those who are regrouping) and I am your reinforcement.'" ***(Da'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. We do not know of it except as a narration of Yazīd bin Abī Ziyād. And the meaning of his saying: "The people turned to escape" is that they fled from the fighting. As for the meaning of his saying: "Rather you are *Al-'Akkārūn*," the *'Akkār* is the one who flees to his *Imām* in order that he may help him, it does not mean fleeing from the advancing army.

١٧١٦ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ عَنْ يَزِيدَ بْنِ أَبِي زِيَادٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ أَبِي لَيْلَى، عَنِ ابْنِ عُمَرَ قَالَ: بَعَثَنَا رَسُولُ اللهِ ﷺ فِي سَرِيَّةٍ فَحَاصَ النَّاسُ حَيْصَةً فَقَدِمْنَا الْمَدِينَةَ فَاخْتَبَأْنَا بِهَا وقُلْنَا: هَلَكْنَا، ثُمَّ أَتَيْنَا رَسُولَ اللهِ ﷺ فَقُلْنَا: يَا رَسُولَ اللهِ نَحْنُ الْفَرَّارُونَ، قَالَ: «بَلْ أَنْتُمُ الْعَكَّارُونَ وأَنَا فِئَتُكُمْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ يَزِيدَ بْنِ أَبِي زِيادٍ ومَعْنَى قَوْلِهِ: فَحَاصَ النَّاسُ حَيْصَةً، يَعْنِي: أَنَّهُمْ فَرُّوا مِنَ القِتَالِ. ومَعْنَى قَوْلِهِ: بَلْ أَنْتُمُ العَكَّارُونَ، والعَكَّارُ الَّذي يَفِرُّ إِلَى إمامِهِ لِيَنْصُرَهُ لَيْسَ يُرِيدُ الفِرارَ مِنَ الزَّحْفِ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الجهاد، باب: في التولي يوم الزحف، ح:٢٦٤٧ من حديث يزيد بن أبي زياد به وهو ضعيف مدلس وعنعن.

Comments:

The Prophet ﷺ sensed their feeling of shame and gave them the solace by saying: You are not deserters. You have only returned to your party for

regrouping. You are not, therefore, sinners and criminals. I am your leader, and you have come to me for reinforcement and not as those who flee from the field.

Chapter 38. What Has Been Related About Burying The One Killed Where He Was Killed

(المعجم ٣٨) - بَابُ [مَا جَاءَ فِي دَفْنِ الْقَتِيلِ فِي مَقْتَلِهِ] (التحفة ٦٣)

1717. Jābir bin 'Abdullāh said: "On the Day of Uhud, my father's sister came with my father to bury him in a cemetery of ours. So one of the callers of the Messenger of Allāh ﷺ called out: 'Return those killed to where they were lying.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. [And (one of the narrators) Nubaiḥ is trustworthy].

١٧١٧ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ: أَخْبَرَنَا شُعْبَةُ عَنِ الْأَسْوَدِ بْنِ قَيْسٍ قَالَ: سَمِعْتُ نُبَيْحًا الْعَنْزِيَّ يُحَدِّثُ عَنْ جَابِرِ ابْنِ عَبْدِ اللهِ قَالَ: لَمَّا كَانَ يَوْمُ أُحُدٍ جَاءَتْ عَمَّتِي بِأَبِي لِتَدْفِنَهُ فِي مَقَابِرِنَا، فَنَادَى مُنَادِي رَسُولِ اللهِ ﷺ: «رُدُّوا الْقَتْلَى إِلَى مَضَاجِعِهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [وَنُبَيْحٌ ثِقَةٌ].

تخريج: [إسناده صحيح] وأخرجه أبو داود، ح: ٣١٦٥ وابن ماجه، ح: ١٥١٦ والنسائي، ح: ٢٠٠٦ من حديث الأسود بن قيس به وهو في مسند أبي داود الطيالسي، ح: ١٧٨٠ بطوله، وصححه ابن خزيمة وابن حبان، ح: ٧٧٤، ٧٧٥ وابن الجارود، ح: ٥٥٣.

Comments:

The *Ḥadīth* contains the rule of *Sharī'ah* that the martyrs are to be buried in the very place they are killed. However, in case of some impediment or necessity, or the fear of desecration, the body may be buried in some other place, otherwise not. (*Tuḥfat Al-Aḥwadhī*, v.3, p.39)

Chapter 39. What Has Been Related About Meeting The One Who Was Away When He Arrives

(المعجم ٣٩) - بَابُ مَا جَاءَ فِي تَلَقِّي الْغَائِبِ إِذَا قَدِمَ (التحفة ٦٤)

1718. As-Sā'ib bin Yazīd narrated: "When the Messenger of Allāh ﷺ arrived from Tabūk, the people went out to Thaniyyah Al-Wadā' to meet him." As-Sā'ib said: "I went out with the people, and I was a boy." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٧١٨ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ وسَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ الْمَخْزُومِيُّ قَالَا: حَدَّثَنَا سُفْيَانُ ابْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنِ السَّائِبِ بْنِ يَزِيدَ قَالَ: لَمَّا قَدِمَ رَسُولُ اللهِ ﷺ مِنْ تَبُوكَ خَرَجَ النَّاسُ يَتَلَقَّوْنَهُ إِلَى ثَنِيَّةِ الْوَدَاعِ، قَالَ السَّائِبُ: فَخَرَجْتُ مَعَ النَّاسِ وأَنَا غُلَامٌ.

[قَالَ أَبُو عِيسَى :] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ .

تخريج: [**صحيح**] وأخرجه البخاري، المغازي، باب كتاب النبي ﷺ إلى كسرى وقيصر، ح:٤٤٢٧ وأبو داود، ح:٢٧٧٩ من حديث سفيان بن عيينة به.

Comments:

The Hadīth confirms that it is allowed to go out to welcome a noted religious figure or a person returning after performing some virtuous deed.

Chapter 40. What Has Been Related About *Al-Fay'* (Spoils of War)

(المعجم ٤٠) - بَابُ مَا جَاءَ فِي الْفَيْءِ
(التحفة ٦٥)

1719. 'Umar bin Al-Khaṭṭāb said: "The wealth of Banū An-Naḍīr was among the spoils of war which Allāh granted upon His Messenger ﷺ which the Muslims did not gain with the rush of their horses nor camels. So it was purely for the Messenger of Allāh ﷺ, and the Messenger of Allāh ﷺ would set aside a year's worth of expenditure for his family, then he would use what remained of it for horses and weapons to be used in Allāh's cause." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This Hadīth is *Ḥasan Ṣaḥīḥ*. [Sufyān bin 'Uyainah reported this Hadīth from Ma'mar, from Ibn Shihāb].

١٧١٩ - **حَدَّثَنَا** ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنِ ابْنِ شِهَابٍ، عَنْ مَالِكِ بْنِ أَوْسِ بْنِ الْحَدَثَانِ قَالَ: سَمِعْتُ عُمَرَ بْنَ الْخَطَّابِ يَقُولُ: كَانَتْ أَمْوَالُ بَنِي النَّضِيرِ مِمَّا أَفَاءَ اللهُ عَلَى رَسُولِهِ مِمَّا لَمْ يُوجِفِ الْمُسْلِمُونَ عَلَيْهِ بِخَيْلٍ وَلَا رِكَابٍ، وكانَتْ لِرَسُولِ اللهِ ﷺ خَالِصًا، وكانَ رَسُولُ اللهِ ﷺ يَعْزِلُ نَفَقَةَ أَهْلِهِ سَنَةً ثُمَّ يَجْعَلُ ما بَقِيَ في الْكُرَاعِ والسِّلَاحِ عُدَّةً في سَبِيلِ اللهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ [ورَوَى سُفْيَانُ بْنُ عُيَيْنَةَ هٰذَا الْحَدِيثَ عَنْ مَعْمَرٍ، عَنِ ابْنِ شِهَابٍ].

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب المجن ومن يترس بترس صاحبه، ح:٢٩٠٤ ومسلم، ح:١٧٥٧ من حديث سفيان بن عيينة به.

Comments:

The Hadīth confirms that, during the days of the Messenger of Allāh ﷺ, the distribution of all kinds of wealth, including the orchards seized from the enemy without combat, was the sole prerogative of the Messenger of Allāh ﷺ who disposed of it according to his discretion. This is also the view of the majority of the scholars (*Tuḥfat Al-Aḥwadhī*, v.3, p.39). It must also be clarified that to set aside a years' worth of expenditure for one's family is not against the Islamic spirit of *Tawakkul* (reliance upon Allāh).

In the Name of Allāh, the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

22. The Chapters On Clothing From The Messenger Of Allāh ﷺ

(المعجم ٢٢) - أَبْوَابُ اللِّبَاسِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ١٩)

Chapter 1. What Has Been Related About Silk And Gold For Men

(المعجم ١) - بَابُ مَا جَاءَ فِي الْحَرِيرِ وَالذَّهَبِ لِلرِّجَالِ (التحفة ١)

1720. Abū Mūsā Al-Ash'arī narrated that the Messenger of Allāh ﷺ said: "Wearing silk and gold has been made unlawful for the males of my *Ummah* and lawful for its females." (***Sahīh***)

[Abū 'Eīsā said:] There are narrations on this topic from 'Umar, 'Alī, 'Uqbah bin 'Āmir, Anas, Umm Hāni', Hudhaifah, 'Abdullāh bin 'Amr, 'Imrān bin Husain, 'Abdullāh bin Az-Zubair, Jābir, Abū Raihānah, Ibn 'Umar, Al-Barā', and [Wāthilah bin Al-Asqa'], and this *Hadīth* is *Hasan Sahīh*.

١٧٢٠ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ عُمَرَ عَنْ نَافِعٍ، عَنْ سَعِيدِ بْنِ أَبِي هِنْدٍ، عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «حُرِّمَ لِبَاسُ الْحَرِيرِ والذَّهَبِ عَلَى ذُكُورِ أُمَّتِي وأُحِلَّ لِإِنَاثِهِمْ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عُمَرَ، وعَلِيٍّ، وعُقْبَةَ بْنِ عَامِرٍ، وأَنَسٍ وأُمِّ هَانِيءٍ، وحُذَيْفَةَ، وعَبْدِ اللهِ بْنِ عَمْرٍو، وعِمْرَانَ بْنِ حُصَيْنٍ، وعَبْدِ اللهِ بْنِ الزُّبَيْرِ، وجابِرٍ، وأَبِي رَيْحَانَةَ، وابْنِ عُمَرَ، وَالْبَرَاءِ، [ووَاثِلَةَ بْنِ الْأَسْقَعِ]، وهٰذا حَدِيث حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه النسائي: ٨/ ١٦١، ح: ٥١٥١ (الزينة، باب تحريم الذهب على الرجال) من حديث نافع به وللحديث شواهد كثيرة عند أبي داود، ح: ٤٠٥٧ والنسائي، ح: ٥١٤٩ وغيرهما وهو من الأحاديث المتواترة * وفي الباب عن عمر [يأتي: ١٧٢١] وعلي [أبو داود، ح: ٤٠٥٧] وعقبة بن عامر [النسائي، ح: ٥١٣٩ والطحاوي في معاني الآثار: ١٤/ ٢٥٧ وأنس [البخاري، ح: ٥٨٣٢ ومسلم، ح: ٢٠٧٣] وحذيفة [البخاري، ح: ٥٨٣١ ومسلم، ح: ٢٠٦٧] وأم هانئ [لعله يشير إلى حديث الطبراني في الكبير: ٢٤/ ٤٣٧، ح: ١٠٦٩] وعبدالله بن عمرو [ابن أبي شيبة: ٨/ ١٦٤] وعمران بن حصين [يأتي: ١٧٣٨] وعبدالله بن الزبير [البخاري، ح: ٥٨٣٣ ومسلم، ح: ٢٠٦٩] وجابر [أحمد: ٣/ ٣٣٧، ٣٤٢، ٣٤٧ والطحاوي في معاني الآثار: ٤/ ٢٥٤] وأبي

ريحانة [أبو داود، ح:٤٠٤٩] وابن عمر [البخاري، ح:٥٨٣٥ ومسلم، ح:٢٠٦٨] واثلة بن الأسقع [الطبراني في الكبير: ٢٢/ ٩٧، ح: ٢٣٤].

Comments:

The *Hadīth* stipulates the rule that wearing silk clothes and gold ornaments are lawful for women but unlawful for men. As for the use of gold and silver utensils, it is not allowed for anyone in Islam.

1721. Suwaid bin Ghafalah narrated that 'Umar gave a *Khutbah* at Al-Jābiyah and he said: "The Messenger of Allāh ﷺ prohibited silk except for two finger's worth of space, or three, or four." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٧٢١ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ: حَدَّثَنَا أَبِي عَنْ قَتَادَةَ، عَنِ الشَّعْبِيِّ، عَنْ سُوَيْدِ بْنِ غَفَلَةَ، عَنْ عُمَرَ: أَنَّهُ خَطَبَ بِالْجَابِيَةِ فَقَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ الْحَرِيرِ إِلَّا مَوْضِعَ أُصْبُعَيْنِ أَوْ ثَلَاثٍ أَوْ أَرْبَعٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، اللباس والزينة، باب تحريم لبس الحرير وغيره ذلك للرجال، ح:٢٠٦٩/ ١٥ عن محمد بن بشار به.

Comments:

The *Hadīth* tells us that if a piece of cloth contains two, three or four fingers' width of silk thread, it is allowed to use it. More than four fingers width is prohibited (for men). An overwhelming majority of scholars holds this to be the right view. (*Tuhfat Al-Ahwadhī*, v.3, p.40).

Chapter 2. What Has Been Related (About Permitting) The Wearing Of Silk During War

(المعجم ٢) - بَابُ مَا جَاءَ [فِي الرُّخْصَةِ] فِي لُبْسِ الْحَرِيرِ فِي الْحَرْبِ (التحفة ٢)

1722. Anas bin Mālik narrated that 'Abdur-Rahmān bin 'Awf, and Az-Zubair bin Al-'Awwām complained of lice to the Prophet ﷺ during a battle that they participated in. So he permitted them to wear silk shirts. He (Anas) said: "I saw them wearing them." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٧٢٢ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا عَبْدُ الصَّمَدِ بْنُ عَبْدِ الوارِثِ: حَدَّثَنَا هَمَّامٌ: حَدَّثَنَا قَتَادَةُ عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ عَبْدَ الرَّحْمٰنِ بْنَ عَوْفٍ والزُّبَيْرَ بْنَ العَوَّامِ شَكَيَا القَمْلَ إِلَى النَّبِيِّ ﷺ في غَزَاةٍ لَهُمَا، فَرَخَّصَ لَهُمَا فِي قُمُصِ الْحَرِيرِ قَالَ: ورَأَيْتُهُ عَلَيْهِمَا.

[قَالَ أَبُو عِيسَى:] هٰذَا حديثٌ حسنٌ صحيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الجهاد والسير، باب الحرير في الحرب، ح:٢٩٢٠ من حديث همام، مسلم، ح:٢٠٧٦/ ٢٦ من حديث قتادة به.

Comments:

Lice entering the clothes can result in severe itching for the wearers, so in order to remedy this problem, or some disease, wearing silk has been permitted in such cases.

Chapter 3. Touching Silk Without Wearing It

(المعجم ٣) - بَابُ [مَسِّ الْحَرِيرِ مِنْ غَيْرِ لُبْسٍ] (التحفة ٣)

1723. Wāqid bin 'Amr bin Sa'd bin Mu'ādh said: "Anas bin Mālik arrived. So I went to him and he said: 'Who are you?' I said: 'I am Wāqid bin 'Amr [bin Sa'd bin Mu'ādh].'" He said: "So he began to cry and he said: 'You resemble Sa'd. Sa'd was one of the greatest people, and of the tallest. The Messenger of Allāh ﷺ was sent a cloak of *Dībāj*[1] with gold woven into it. The Messenger of Allāh ﷺ wore it and ascended the *Minbar*. Then he stood, or sat, and the people began touching it, and they said: 'We never saw a garment like this before today.' So he said: 'Are you amazed at this? The handkerchiefs of Sa'd in Paradise are better than what you see.'" (***Hasan***)

He said: There is something on this topic from Asmā' bint Abū Bakr.

This *Hadīth* is *Sahīh*.

١٧٢٣ - حَدَّثَنَا أَبُو عَمَّارٍ: حَدَّثَنَا الفَضْلُ ابْنُ مُوسَى عَنْ مُحَمَّدِ بْنِ عَمْرٍو: حَدَّثَنِي وَاقِدُ بْنُ عَمْرِو بْنِ سَعْدِ بْنِ مُعَاذٍ قَالَ: قَدِمَ أَنَسُ بْنُ مالِكٍ فَأَتَيْتُهُ فَقَالَ: مَنْ أَنْتَ؟ فَقُلْتُ: أَنَا وَاقِدُ بْنُ عَمْرٍو [بْنِ سَعْدِ بْنِ مُعَاذٍ]، قَالَ: فَبَكَى وقَالَ: إِنَّكَ لَشَبِيهٌ بِسَعْدٍ، وإِنَّ سَعْدًا كانَ مِنْ أَعْظَمِ النَّاسِ، وَأَطْوَلَ، وإِنَّهُ بُعِثَ إِلَى النَّبِيِّ ﷺ جُبَّةٌ مِنْ دِيبَاجٍ مَنْسُوجٌ فِيهَا الذَّهَبُ، فَلَبِسَها رَسُولُ اللهِ ﷺ فَصَعِدَ الْمِنْبَرَ فَقَامَ أَوْ قَعَدَ، فَجَعَلَ النَّاسُ يَلْمِسُونَهَا، فَقَالُوا: مَا رَأَيْنَا كَالْيَوْمِ ثَوْبًا قَطُّ. فَقَالَ: «أَتَعْجَبُونَ مِنْ هٰذِهِ؟ لَمَنادِيلُ سَعْدٍ في الْجَنَّةِ خَيْرٌ مِمَّا تَرَوْنَ».

قَالَ: وفِي الْبَابِ عَنْ أَسْمَاءَ بِنْتِ أَبِي بَكْرٍ.

[و] هٰذَا حَدِيثٌ صَحِيحٌ.

تخريج: [**إسناده حسن**] وأخرجه النسائي، الزينة، باب لبس الديباج والمنسوج بالذهب، ٨/ ١٩٩، ح:٥٣٠٤ من حديث محمد بن عمرو به * وفي الباب عن أسماء بنت أبي بكر [مسلم، ح:٢٠٦٩].

Comments:

The prohibition on wearing silk garment had not yet been revealed. That is why the Prophet ﷺ ascended the *Minbar* with it on and, sensing the amazement of the people, informed them that the meanest wear in Paradise would be far superior to the best of this world.

[1] A type of silk cloth, or silk brocade.

Chapter 4. What Has Been Related About Permitting The Red Garment For Men

(المعجم ٤) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي الثَّوْبِ الْأَحْمَرِ لِلرِّجَالِ (التحفة ٤)

1724. Al-Barā' said: "I have not seen anyone with hair past his shoulders in a red *Ḥullah* more handsome than the Messenger of Allāh ﷺ. He had hair that would flow on his shoulders, (and he had) broad shoulders (and he was) not too short and not too long." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from Jābir bin Samurah, Abū Rimthah, and Abū Juḥaifah.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٧٢٤ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا وكِيعٌ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي إِسْحَاقَ، عَنِ الْبَرَاءِ قَالَ: مَا رَأَيْتُ مِنْ ذِي لِمَّةٍ فِي حُلَّةٍ حَمْرَاءَ أَحْسَنَ مِنْ رَسُولِ اللهِ ﷺ، لَهُ شَعْرٌ يَضْرِبُ مَنكِبَيْهِ، بَعِيدٌ ما بَيْنَ الْمَنْكِبَيْنِ، لَمْ يَكُنْ بالقَصِيرِ ولَا بالطَّوِيلِ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ جَابِرِ ابْنِ سَمُرَةَ وأَبِي رِمْثَةَ وأَبِي جُحَيْفَةَ.

[و] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الفضائل، باب: في صفة النبي ﷺ، وأنه كان أحسن الناس وجهًا، ح:٢٣٣٧ من حديث وكيع والبخاري، ح:٣٥٥١ من حديث أبي إسحاق به * وفي الباب عن جابر بن سمرة [مسلم، ح:٢٣٤٤/ ١١٠] وأبي رمثة [أحمد:٢/ ٢٢٦] وأبي جحيفة [البخاري، ح:٣٥٤٥ ومسلم، ح:٢٣٤٢].

Comments:

Scholars have divergent views regarding wearing red, namely it is (i) lawful, (ii) unlawful, (iii) dark red is unlawful, light red is lawful, (iv) wearing for ornamentation or ostentation is prohibited, wearing inside one's house and for sundry jobs is permitted, (v) dyeing red after manufacturing is not lawful, woven with red thread is lawful, (vi) dyed red with safflower is prohibited, dyed red with some other substance is permitted, (vii) striped red (with white or black threads) is permitted, pure red is prohibited (*Tuḥfat Al-Aḥwadhī*, v.3, p.43). The correct position in this regard seems to be that shining red garment as generally put on by the brides in the Indian subcontinent is not appropriate for men. Similarly cloth dyed red with safflower is also not allowed for men. There is, however, no harm in wearing a garment which is light red (instead of shining red) or has red straps woven into black or white threads. However, if red color becomes the hallmark of a non-Muslim community or people, then it will be unlawful for the faithful on grounds of similarity with those people (See *Tuḥfat Al-Aḥwadhī*, v.3, p.42 for details).

Chapter 5. What Has Been Related About It Being Disliked For Men To Wear Garments Dyed With *'Usfur*[1]

(المعجم ٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْمُعَصْفَرِ لِلرِّجَالِ (التحفة ٥)

1725. 'Alī narrated: "The Messenger of Allāh ﷺ prohibited wearing *Al-Qassī* and what was dyed with *'Usfur*." (***Sahīh***)

[Abū 'Eīsā said:] There are narrations on this topic from Anas and 'Abdullāh bin 'Amr.

١٧٢٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مالِكُ بْنُ أَنَسٍ عَنْ نافِعٍ، عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ اللهِ بْنِ حُنَيْنٍ، عَنْ أَبِيهِ، عَنْ عَلِيٍّ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ لُبْسِ الْقَسِّيِّ والمُعَصْفَرِ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ أَنَسٍ وعَبْدِ اللهِ بْنِ عَمْرٍو.

وحَدِيثُ عَلِيٍّ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، اللباس والزينة، باب النهي عن لبس الرجل الثوب المعصفر، ح:٢٠٧٨ من حديث مالك به وهو في الموطإ:١/ ٨٠ بطوله * وفي الباب عن أنس [الطحاوي في معاني الآثار: ٤/ ٢٤٩] وعبدالله بن عمرو [مسلم، ح:٢٠٧٧].

Comments:

Qassī: Cloth made in Qas (name of a place) that had predominantly silk texture.

Chapter 6. What Has Been Related About Wearing Furs

(المعجم ٦) - بَابُ مَا جَاءَ فِي لُبْسِ الْفِرَاءِ (التحفة ٦)

1726. Salmān narrated: "The Messenger of Allāh ﷺ was asked about fat, cheese, and furs, so he said: 'The lawful is what Allāh made lawful in His Book, the unlawful is what Allāh made unlawful in his Book, and what He was silent about; then it is among that for which He has pardoned.'" (***Hasan***)

[Abū 'Eīsā said:] There is something on this topic from Al-Mughīrah, and this *Hadīth* is *Gharīb*, we do not know of it being *Marfū'* except from this route.

١٧٢٦ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ مُوسَى الفَزَارِيُّ: حَدَّثَنَا سَيْفُ بْنُ هارُونَ [البُرْجُمِيُّ] عَنْ سُلَيْمَانَ التَّيْمِيِّ، عَنْ أَبِي عُثْمَانَ، عَنْ سَلْمَانَ قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ عَنِ السَّمْنِ والْجُبْنِ والفِرَاءِ فَقَالَ: «الْحَلَالُ ما أَحَلَّ اللهُ فِي كِتَابِهِ، والْحَرَامُ ما حَرَّمَ اللهُ فِي كِتَابِهِ، وَمَا سَكَتَ عَنْهُ فَهُوَ مِمَّا عَفَا عَنْهُ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنِ المُغِيرَةِ.

[و]هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ مَرْفُوعًا

[1] The red dye derived from safflowers.

Sufyān and others reported it from Sulaimān At-Taimī, from Abū 'Uthmān, from Salmān as his own saying. It is as if the *Mawqūf* narration is more correct. [I asked Al-Bukhārī about this *Hadīth* and he said: 'I do not think it is preserved. Sufyān reported it from Sulaimān At-Taimī from Abū 'Uthmān, from Salmān in *Mawqūf* form.' Al-Bukhārī said: "Saif bin Hārūn is *Muqārib* (average) in *Hadīth*, and as for Saif bin Muhammad from 'Āṣim, his narrations are left."

إِلَّا مِنْ هٰذَا الْوَجْهِ.

ورَوَى سُفْيَانُ وَغَيْرُهُ عَنْ سُلَيْمَانَ التَّيْمِيِّ، عَنْ أَبِي عُثْمَانَ، عَنْ سَلْمَانَ قَوْلَهُ. وكَأَنَّ الحَدِيثَ المَوْقُوفَ أَصَحُّ [وسَأَلْتُ البُخَارِيَّ عَنْ هٰذَا الحَدِيثِ فَقَالَ: ما أَرَاهُ مَحْفُوظًا رَوَى سُفْيَانُ عَنْ سُلَيْمَانَ التَّيْمِيِّ، عَنْ أَبِي عُثْمَانَ، عَنْ سَلْمَانَ مَوْقُوفًا، قَالَ البُخَارِيُّ: وسَيْفُ بْنُ هارُونَ مُقَارِبُ الحَدِيثِ وسَيْفُ بْنُ مُحَمَّدٍ عَنْ عاصِمٍ ذَاهِبُ الحَدِيثِ].

تخريج: [حسن] وأخرجه ابن ماجه، الأطعمة، باب أكل الجبن والسمن، ح:٣٣٦٧ عن إسماعيل بن موسى به وسنده ضعيف وللحديث شاهد عند الحاكم: ٢/ ٣٧٥ وصححه ووافقه الذهبي وحسنه الهيثمي وقال البزار: "إسناده صالح" * وفي الباب عن المغيرة [أبو داود، ح:٦٥٩].

Comments:

Things, as to their permissibility and impermissibility, fall into four categories: (i) clearly lawful, whose permissibility has been clearly notified, (ii) clearly unlawful, that could not be declared lawful, (iii) matters which are not clear to many who are doubtful about them since they do not have the knowledge about it, and (iv) the pardoned ones, about which the *Sharī'ah* is discreetly silent, and there is no categorical yes or no about them. Their permissibility or prohibition is, however, unmistakably evident and clear. So, the right course is to completely avoid the prohibited. As for the matters that one has doubt about them, avoiding them would mean guarding ones faith and honor against any blame or ignominy. Clearly lawful matters can be pursued without qualms of conscience. Pardoned matters are no doubt allowed.

Chapter 7. What Has Been Related About The Skins Of Dead Animals When They Are Tanned

(المعجم ٧) - بَابُ مَا جَاءَ فِي جُلُودِ الْمَيْتَةِ إِذَا دُبِغَتْ (التحفة ٧)

1727. Ibn 'Abbās narrated: "A sheep died so the Messenger of Allāh ﷺ said to its owners: 'Why don't you remove its skin, then tan it so you can have something useful from it.'" (*Sahīh*)

[Abū 'Eīsā said:] There are

١٧٢٧ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ عَنْ يَزِيدَ بْنِ أَبِي حَبِيبٍ، عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ قَالَ: سَمِعْتُ ابْنَ عَبَّاسٍ يَقُولُ: ماتَتْ شَاةٌ فَقَالَ رَسُولُ اللهِ ﷺ لِأَهْلِهَا: «أَلا نَزَعْتُمْ جِلْدَهَا ثُمَّ دَبَغْتُمُوهُ فَاسْتَمْتَعْتُمْ بِهِ».

narrations on this topic from Salamah bin Al-Muḥabbaq, Maimūnah, and 'Āishah. The *Ḥadīth* of Ibn 'Abbās is *Ḥasan Ṣaḥīḥ*. Similar to this has been reported through other routes from Ibn 'Abbās from the Prophet ﷺ. And it has been related from Ibn 'Abbās from Maimūnah, from the Prophet ﷺ, and, it has been related from him from Sawdah. I heard Muḥammad saying the *Ḥadīth* of Ibn 'Abbās from the Prophet ﷺ, and the *Ḥadīth* of Ibn 'Abbās from Maimūnah from the Prophet ﷺ were correct. And he said: "It implies that it was reported from Ibn 'Abbās from Maimūnah from the Prophet ﷺ, and that Ibn 'Abbās reported it from the Prophet ﷺ, and he did not mention Maimūnah in it."

[Abū 'Eīsā said:] This is acted upon according to most of the people of knowledge, and it is the view of Sufyān Ath-Thawrī, Ibn Al-Mubārak, Ash-Shāfi'ī, Aḥmad, and Isḥāq.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ سَلَمَةَ ابْنِ الْمُحَبَّقِ وَمَيْمُونَةَ وعائِشَةَ، وحَدِيثُ ابْنِ عَبَّاسٍ حَسَنٌ صَحِيحٌ، وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ نَحْوُ هٰذَا. ورُوِيَ عَنِ ابْنِ عَبَّاسٍ، عَنْ مَيْمُونَةَ عَنِ النَّبِيِّ ﷺ ورُوِيَ عَنْهُ عَنْ سَوْدَةَ. وَسَمِعْتُ مُحَمَّدًا يُصَحِّحُ حَدِيثَ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ وحَدِيثَ ابْنِ عَبَّاسٍ عَنْ مَيْمُونَةَ وقَالَ: احتَمَلَ أَنْ يَكونَ رَوَى ابْنُ عَبَّاسٍ عَنْ مَيْمُونَةَ عَنِ النَّبِيِّ ﷺ. ورَوَى ابْنُ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ ولَمْ يَذْكُرْ فِيهِ عَنْ مَيْمُونَةَ. [قَالَ أَبُو عِيسَى:] والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ وهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وابْنِ الْمُبَارَكِ والشَّافِعِيِّ وأَحْمَدَ وإِسْحَاقَ.

تخريج: [إسناده صحيح] وأخرجه مسلم، الحيض، باب طهارة جلود الميتة بالدباغ، ح:٣٦٥ من حديث عطاء بن أبي رباح به * وفي الباب عن سلمة بن المحبق [أبو داود، ح:٤١٢٥] وميمونة [مسلم، ح:٣٦٣] وعائشة [أبو داود، ح:٤١٢٤] وعن سودة [البخاري، ح:٦٦٨٦].

Comments:

The correct position in the matter seems to be that the skins of noxious animals are not permitted to make use of since the Prophet ﷺ has said so, as would be clear from an ensuing exclusive chapter on the subject, even though tanning would turn the skin clean.

1728. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "Any skin that is tanned, then it has been made pure." (*Ṣaḥīḥ*)

١٧٢٨ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ وعَبْدُ العَزِيزِ بْنُ مُحَمَّدٍ عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ وَعْلَةَ، عَنِ ابْنِ

عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «أَيُّمَا إِهَابٍ دُبِغَ فَقَدْ طَهُرَ». هٰذا حَدِيثٌ حَسَنٌ صَحِيحٌ والْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ قَالُوا في جُلُودِ المَيْتَةِ إذا دُبِغَتْ فَقَدْ طَهُرَتْ.

[قَالَ أَبُو عِيسَى:] وَقَالَ الشَّافِعِيُّ: أَيُّمَا إِهَابِ [مَيْتَةٍ] دُبِغَ فَقَدْ طَهُرَ إِلَّا الكَلْبَ والْخِنْزِيرَ. وكَرِهَ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ جُلُودَ السِّبَاعِ [وإِنْ دُبِغَ وهُوَ قَوْلُ عَبْدِ اللهِ بْنِ الْمُبَارَكِ وأَحْمَدَ وإِسْحَاقَ] وشَدَّدُوا في لُبْسِهَا والصَّلَاةِ فِيهَا. قَالَ إِسْحَاقُ بْنُ إِبْرَاهِيمَ: إِنَّمَا مَعْنَى قَوْلِ النَّبِيِّ ﷺ: «أَيُّمَا إِهَابٍ دُبِغَ فَقَدْ طَهُرَ» إِنَّمَا يَعْنِي بِهِ جِلْدَ ما يُؤْكَلُ لَحْمُهُ. هٰكَذَا فَسَّرَهُ النَّضْرُ بْنُ شُمَيْلٍ وقَالَ: إِنَّمَا يُقَالُ إِهَابٌ لِجلْدِ ما يُؤْكَلُ لَحْمُهُ وكَرِهَ ابْنُ الْمُبَارَكِ وأَحْمَدُ وإِسْحَاقُ والْحُمَيْدِيُّ الصَّلَاةَ في جُلُودِ السِّبَاعِ.

This *Hadīth* is *Hasan Sahīh*. This is acted upon according to most of the people of knowledge, they say that when the skin of a dead animal has been tanned then it has been made pure.

[Abū 'Eīsā said:] Ash-Shāfi'ī said: "Any [dead animal's] skin that is tanned, then it has been made pure, except for the dog and the pig." Some of the people of knowledge among the Companions of the Prophet ﷺ disliked skins of predators [even when tanned, and this is the view of 'Abdullāh bin Al-Mubārak, Ahmad, and Ishāq], and they were firm about not wearing them and performing *Salāt* in them. Ishāq bin Ibrāhīm said: "The saying of the Prophet ﷺ: 'Any skin that is tanned, then it has been made pure' only refers to the skins of animals whose meat is eaten." This is how it was explained by An-Nasr bin Shumail.

And he said: "The word *Ihāb* is only used for a skin of an animal that is eaten," and Ibn al-Mubārak, Ahmad, Ishāq and Al-Humaidī disliked performing *Salāt* in predator skins.

تخريج: وأخرجه مسلم، الحيض، باب طهارة جلود الميتة بالدباغ، ح:٣٦٦ عن قتيبة به.

١٧٢٩ - **حَدَّثَنَا** مُحَمَّدُ بْنُ طَرِيفٍ الكُوفِيُّ: حَدَّثَنَا مُحَمَّدُ بْنُ فُضَيْلٍ عَنِ الأَعْمَشِ والشَّيْبَانِيِّ، عَنِ الْحَكَمِ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ أَبِي لَيْلَى، عَنْ عَبْدِ اللهِ بْنِ عُكَيْمٍ قَالَ: أَتَانَا كِتَابُ رَسُولِ اللهِ ﷺ أَنْ لَا

1729. 'Abdullāh bin 'Ukaim said: "A letter came to us from the Messenger of Allāh ﷺ (saying: 'Do not use the skins of dead animals, nor tendons.'" (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. This *Hadīth* has been related from 'Abdullāh bin 'Ukaim

تَنْتَفِعُوا مِنَ الْمَيْتَةِ بِإِهَابٍ وَلَا عَصَبٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ، ويُرْوَى عَنْ عَبْدِ اللهِ بْنِ عُكَيْمٍ، عَنْ أَشْيَاخٍ لَهُ هٰذَا الحَدِيثُ ولَيْسَ الْعَمَلُ عَلَى هٰذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ. وقَدْ رُوِيَ هٰذَا الحَدِيثُ عَنْ عَبْدِ اللهِ بْنِ عُكَيْمٍ أَنَّهُ قَالَ: أَتَانَا كِتَابُ النَّبِيِّ ﷺ قَبْلَ وَفَاتِهِ بِشَهْرَيْنِ.

قَالَ: وسَمِعْتُ أَحْمَدَ بْنَ الْحَسَنِ يَقُولُ: كانَ أَحْمَدُ بْنُ حَنْبَلٍ يَذْهَبُ إِلَى هٰذَا الْحَدِيثِ لِمَا ذُكِرَ فِيهِ قَبْلَ وَفَاتِهِ بِشَهْرَيْنِ وكانَ يَقُولُ كَانَ هٰذَا آخِرَ أَمْرِ النَّبِيِّ ﷺ ثُمَّ تَرَكَ أَحْمَدُ بْنُ حَنْبَلٍ هٰذَا الحَدِيثَ لَمَّا اضْطَرَبُوا فِي إِسْنَادِهِ حَيْثُ رَوَى بَعْضُهُمْ فَقَالَ: عَنْ عَبْدِ اللهِ بْنِ عُكَيْمٍ، عَنْ أَشْيَاخٍ لَهُ مِنْ جُهَيْنَةَ.

from some *Shuyūkh* of his, and this is not acted upon according to most of the people of knowledge. And this *Hadīth* has been related from 'Abdullāh bin 'Ukaim, that he said: "A letter came to us from the Messenger of Allāh ﷺ two months before he died."

He said: I heard Aḥmad bin Al-Ḥasan saying: "Aḥmad bin Ḥanbal followed this *Hadīth* due to it mentioning that it was two months before he ﷺ died. Then Aḥmad left this *Hadīth* because of their *Idṭirāb* in its chain, since some of them reported it, saying: 'From 'Abdullāh bin 'Ukaim from some *Shuyūkh* of his from Juhainah.'"

تخريج: [حسن] وأخرجه أبو داود، اللباس، باب من روى أن لايستفتح بإهاب الميتة، ح:٤١٢٧ والنسائي، ح:٤٢٥٤ وابن ماجه، ح:٣٦١٣ من حديث الحكم بن عتيبة به وحسنه البيهقي وصححه ابن حبان، وصرح الحكم بالسماع وراجع نيل المقصود في جواب الطعن في السند * وأشياخ له من جهينة: صحابة والصحابة كلهم عدول.

Comments:

The majority of the scholars hold the *Hadīth* to mean that it is not in order to make use of the dead skin before tanning.

Chapter 8. What Has Been Related About It Being Disliked To Drag The *Izār*

(المعجم ٨) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ جَرِّ الْإِزَارِ (التحفة ٨)

١٧٣٠ - حَدَّثَنَا الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مالِكٌ؛ ح: وحَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكٍ، عَنْ نافِعٍ، وعَبْدِ اللهِ بْنِ دِينَارٍ وزَيْدِ بْنِ أَسْلَمَ كُلُّهُمْ يُخْبِرُ عَنْ عَبْدِ اللهِ بْنِ عُمَرَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا يَنْظُرُ اللهُ يَوْمَ الْقِيَامَةِ إِلَى

1730. 'Abdullāh bin 'Umar narrated that the Messenger of Allāh ﷺ said: "On the Day of Judgement, Allāh will not look at one who arrogantly drags his garment." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] There are narrations on this topic from Ḥudhaifah, Abū Sa'eed, Abū

مَنْ جَرَّ ثَوْبَهُ خُيَلَاءَ».

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ حُذَيْفَةَ وأَبِي سَعِيدٍ وأَبِي هريرةَ، وسَمُرَةَ وأَبِي ذَرٍّ وعائِشَةَ وهُبَيْبِ بْنِ مُغْفِلٍ.

وحَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

Hurairah, Samurah, Abū Dharr, 'Āishah, and Hubaib bin Mughfil.

The Ḥadīth of Ibn 'Umar is Ḥasan Ṣaḥīḥ.

تخريج: متفق عليه، وأخرجه البخاري، اللباس، باب قول الله تعالى: ﴿قل من حرم زينة الله التي أخرج لعباده﴾، ح:٥٧٨٣ ومسلم، ح:٢٠٨٥ من حديث مالك به وهو في الموطإ:٢/ ٩١٤ (يحيى) * وفي الباب عن حذيفة [يأتي:١٧٨٣] وأبي سعيد [أبو داود، ح:٤٠٩٣] وأبي هريرة [البخاري، ح:٥٧٨٨ ومسلم، ح:٢٠٨٧] وسمرة [أحمد:٥/ ٩، ١٥] وأبي ذر [مسلم، ح:١٠٦] وعائشة [أحمد:٦/ ٥٩، ٢٥٧] وهبيب بن مغفل [أحمد:٣/ ٤٣٧، ٤/ ٢٣٧].

Comments:

To wear the garment so long that it comes down ones heels as a show of ones pride and arrogance is such a serious crime before Allāh that, on the day when each individual shall be in dire need of the mercy of his Gracious Lord, the fellow parading his robes of pride and arrogance in the world shall be deprived of even a passing glance from Him. Other narrations indicate the prohibition without the mention of arrogance.

(المعجم ٩) - بَابُ مَا جَاءَ فِي [جَرِّ] ذُيُولِ النِّسَاءِ (التحفة ٩)

Chapter 9. What Has Been Related About (Dragging) Women's Hems

١٧٣١ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنْ أَيُّوبَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ جَرَّ ثَوْبَهُ خُيَلَاءَ لَمْ يَنْظُرِ اللهُ إِلَيْهِ يَوْمَ القِيَامَةِ» فَقَالَتْ أُمُّ سَلَمَةَ: فَكَيْفَ يَصْنَعُ النِّسَاءُ بِذُيُولِهِنَّ؟ قَالَ: «يُرْخِينَ شِبْرًا» فَقَالَتْ: إِذًا تَنْكَشِفُ أَقْدَامُهُنَّ، قَالَ: «فَيُرْخِينَهُ ذِرَاعًا لَا يَزِدْنَ عَلَيْهِ».

قَالَ: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، وفِي الْحَدِيثِ رُخْصَةٌ لِلنِّسَاءِ في جَرِّ الإِزَارِ لِأَنَّهُ

1731. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Whoever arrogantly drags his garment, Allāh will not look at him on the Day of Judgement." So Umm Salamah said: "What should the women do with their hems?" He said: "Slacken them a hand-span."[1] So she said: "Then their feet will be uncovered." He said: "Then slacken them a forearm's length, and do not add to that." **(*Ṣaḥīḥ*)**

He said: This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. In the *Ḥadīth* there is a

[1] From the middle of the shin. See *Tuhfat Al-Aḥwadhī*.

concession for women to drag their *Izār* because it covers them better.

يَكُونُ أَسْتَرَ لَهُنَّ.

تخريج: [إسناده صحيح] وأخرجه النسائي، الزينة، باب ذيول النساء: ٨/ ٢٠٩، ح: ٥٣٣٨ من حديث عبدالرزاق به وهو في مصنفه: ١١/ ٨٢، ٨٣، ح: ١٩٩٨٤ ورواه مسلم، ح: ٢٠٨٥ من حديث أيوب به ورواه البخاري، ح: ٥٧٨٣.

Comments:

Since women are required to conceal their feet from view, they are allowed to drag their lower garments.

1732. Umm Salamah narrated: "The Prophet ﷺ slackened Fāṭimah's garment a hand-span." (***Hasan***)

[Abū 'Eīsā said:] Some of them reported it from Hammād bin Salamah, from 'Alī bin Zaid, from Al-Ḥasan, from his father, from Umm Salamah.

١٧٣٢ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا عَفَّانُ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ عَلِيِّ بْنِ زَيْدٍ، عَنْ أُمِّ الْحَسَنِ أَنَّ أُمَّ سَلَمَةَ حَدَّثَتْهُمْ: أَنَّ النَّبِيَّ ﷺ شَبَّرَ لِفَاطِمَةَ شِبْرًا مِنْ نِطَاقِهَا.

[قَالَ أَبُو عِيسَى:] وَرَوَاهُ بَعْضُهُمْ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ عَلِيِّ بْنِ زَيْدٍ، عَنِ الْحَسَنِ، عَنْ أَبِيهِ عَنْ أُمِّ سَلَمَةَ.

تخريج: [حسن] وأخرجه أحمد: ٦/ ٢٩٩ عن عفان به وسنده ضعيف وللحديث شواهد منها الحديث السابق.

Comments:

The Arabic word *Niṭāq* means a kind of garment used by women as a girdle round the waist. The Prophet ﷺ allowed it to be slackened down until a span from the feet. See *Tuḥfat Al-Aḥwadhī*.

Chapter 10. What Has Been Related About Wearing Wool

(المعجم ١٠) - بَابُ مَا جَاءَ فِي لُبْسِ الصُّوفِ (التحفة ١٠)

1733. Abū Burdah said: "Āishah brought a patched woolen *Kisā'* (cloak), and a thick *Izār*. She said: 'The Messenger of Allāh ﷺ died in these.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from 'Alī and Ibn Mas'ūd. The *Ḥadīth* of 'Āishah is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

١٧٣٣ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا أَيُّوبُ عَنْ حُمَيْدِ ابْنِ هِلَالٍ، عَنْ أَبِي بُرْدَةَ قَالَ: أَخْرَجَتْ إِلَيْنَا عَائِشَةُ كِسَاءً مُلَبَّدًا وَإِزَارًا غَلِيظًا، فَقَالَتْ: قُبِضَ رَسُولُ اللهِ ﷺ فِي هٰذَيْنِ.

[قَالَ أَبُو عِيسَى:] وَفِي الْبَابِ عَنْ عَلِيٍّ وَابْنِ مَسْعُودٍ. وَحَدِيثُ عَائِشَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، أخرجه البخاري، اللباس، باب الأكسية الخمائص، ح: ٥٨١٨ ومسلم،

ح: ٢٠٨٠ من حديث إسماعيل - وهو ابن علية - به * وفي الباب عن علي [أبويعلى: ١/ ٣٨٧، ح: ٥٠٢] وابن مسعود [يأتي: ١٧٣٤].

Comments:

Since the Messenger of Allāh ﷺ had no interest in gorgeous clothes and ostentatious living, he wore simple and coarse garments so that the poor and the under-privileged of the community took the Prophet ﷺ as their model and did not suffer from a feeling of deprivation or inferiority for want of expensive garments.

1734. Ibn Mas'ūd narrated that the Prophet ﷺ said: "On the day that His Lord spoke to him, Mūsā was wearing a wool *Kisā'*, a wool *Jubbah*,[1] a wool *Kummah*, wool pants, and his sandals were made of the skin of a dead donkey." **(*Ḍa'īf*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except from the narration of Ḥumaid Al-A'raj. And Ḥumaid – Ibn 'Alī Al-A'raj – [I heard Muḥammad saying: "Ḥumaid bin 'Alī Al-A'raj] is *Munkar* in *Ḥadīth*." While Ḥumaid bin Qais Al-A'raj Al-Makkī, the companion of Mujāhid is trustworthy. The *Kummah* is a small cap.

١٧٣٤ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا خَلَفُ بْنُ خَلِيفَةَ عَنْ حُمَيْدٍ الأَعْرَجِ، عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ، عَنِ ابْنِ مَسْعُودٍ عَنِ النَّبِيِّ ﷺ قَالَ: «كانَ عَلَى مُوسَى يَوْمَ كَلَّمَهُ رَبُّهُ كِسَاءُ صُوفٍ وَجُبَّةُ صُوفٍ وكُمَّةُ صُوفٍ وسَرَاوِيلُ صُوفٍ، وكانَتْ نَعْلاَهُ مِنْ جِلْدِ حِمَارٍ مَيِّتٍ».

[قَالَ **أَبُو عِيسَى**:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ حُمَيْدٍ الْأَعْرَجِ. وَحُمَيْدٌ - هُوَ ابْنُ عَلِيٍّ الْأَعْرَجُ - [قَالَ: سَمِعْتُ مُحَمَّدًا يَقُولُ حُمَيْدَ بْنَ عَلِيٍّ الأَعْرَجِ] مُنْكَرُ الْحَدِيثِ. وَحُمَيْدُ بْنُ قَيْسٍ الأَعْرَجُ المَكِّيُّ صَاحِبُ مُجَاهِدٍ ثِقَةٌ. والكُمَّةُ القَلَنْسُوَةُ الصَّغِيرَةُ.

تخريج: [إسناده ضعيف] وأخرجه ابن عدي: ٢/ ٦٨٨ من حديث خلف بن خليفة به * حميد الأعرج: ضعيف (تقريب).

Comments:

There is no harm in wearing the wool as such. However if, as pointed out by Imām Mālik, the idea is to make a show of ones abstinence and austerity before the people, it is by no means a praiseworthy act.

[1] A type of cloak, open in the front.

Chapter 11. What Has Been Related About The Black *'Imāmah*[1]

(المعجم ١١) - بَابُ مَا جَاءَ فِي الْعِمَامَةِ السَّوْدَاءِ (التحفة ١١)

1735. Jābir said: "On the Day of the Conquest, the Prophet ﷺ entered Makkah, and he was wearing a black *'Imāmah*." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from ['Alī], 'Amr bin Ḥuraith, Ibn 'Abbās, Rukānah.

[Abū 'Eīsā said:] The *Ḥadīth* of Jābir is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

١٧٣٥ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ عَنْ حَمَّادِ بْنِ سَلَمَةَ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: دَخَلَ النَّبِيُّ ﷺ مَكَّةَ يَوْمَ الفَتْحِ وعَلَيْهِ عِمَامَةٌ سَوْدَاءُ.

[قَالَ:] وفِي الْبَابِ عَنْ [عَلِيٍّ] وعَمْرِو بْنِ حُرَيْثٍ وابْنِ عَبَّاسٍ وَرُكَانَةَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه أبو داود، اللباس، باب: في العمائم، ح:٤٠٧٦ من حديث حماد بن سلمة، ومسلم، ح:١٣٥٨ من طريق آخر عن أبي الزبير به * وفي الباب عن علي [الطيالسي، ح:١٥٤] وعمرو بن حريث [مسلم، ح:١٣٥٩] وابن عباس [لم أجده] وركانة [يأتي: ١٧٨٤].

Comments:

The *Ḥadīth* proves that it is quite permissible to wear black *'Imāmah* (conveniently translated as a turban).

Chapter 12. (About) Hanging The *'Imāmah* Between the Shoulders

(المعجم ١٢) - بَابٌ: [فِي] سَدْلِ الْعِمَامَةِ بَيْنَ الْكَتِفَيْنِ (التحفة ١٢)

1736. Nāfi' narrated that Ibn 'Umar said: "When the Messenger of Allāh ﷺ would wear an *'Imāmah*, his *'Imāmah* would hang between his shoulders." (***Ḥasan***)

Nāfi' said: "Ibn 'Umar would hang his *'Imāmah* between his shoulders." 'Ubaidullāh said: "And I saw Al-Qāsim and Sālim doing that."

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. [And there is

١٧٣٦ - حَدَّثَنَا هارُونُ بْنُ إِسْحَاقَ الْهَمْدَانِيُّ: حَدَّثَنَا يَحْيَى بْنُ مُحَمَّدٍ المَدَنِيُّ عَنْ عَبْدِ العَزِيزِ بْنِ مُحَمَّدٍ، عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: كانَ النَّبِيُّ ﷺ إذا اعْتَمَّ سَدَلَ عِمَامَتَهُ بَيْنَ كَتِفَيْهِ.

قَالَ نَافِعٌ: وكانَ ابْنُ عُمَرَ يَسْدِلُ عِمَامَتَهُ بَيْنَ كَتِفَيْهِ. قَالَ عُبَيْدُ اللهِ: ورَأَيْتُ القَاسِمَ

[1] A turban, but not restricted to what is commonly thought of as a turban.

وسَالِمًا يَفْعَلَانِ ذٰلِكَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

[وفِي الْبَابِ عَنْ عَلِيٍّ] ولَا يَصِحُّ حَدِيثُ عَلِيٍّ فِي هٰذَا مِنْ قِبَلِ إِسْنَادِهِ.

something on this topic from 'Alī] And the *Ḥadīth* of 'Alī about this is not correct due to its chain.

تخريج: [حسن] وأخرجه العقيلي: ٣/ ٢١ من حديث يحيى بن محمد به وللحديث شواهد كثيرة عند الخطيب: ١١/ ٢٩٣ ومسلم، ح: ١٣٥٩ والهيثمي (مجمع الزوائد: ٥/ ١٢٠) وغيرهم * وفي الباب عن علي [أبو داود الطيالسي في مسنده، ح: ١٥٤].

Comments:

The *Ḥadīth* tells us that the right way to wear the *'Imāmah* according to *Sunnah* is to put the end of it between the two shoulders since the Prophet ﷺ used to hang its loose end between the shoulders. (For details see *Tuḥfat Al-Aḥwadhī*, v.3, ps.47-49)

(المعجم ١٣) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ خَاتَمِ الذَّهَبِ (التحفة ١٣)

Chapter 13. What Has Been Related About Gold Rings Being Disliked

١٧٣٧ - حَدَّثَنَا سَلَمَةُ بْنُ شَبِيبٍ والْحَسَنُ ابْنُ عَلِيٍّ وغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ إِبْرَاهِيمَ بْنِ عَبْدِ اللهِ بْنِ حُنَيْنٍ، عَنْ أَبِيهِ، عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ قَالَ: نَهَانِي رَسُولُ اللهِ ﷺ عَنِ التَّخَتُّمِ بِالذَّهَبِ، وعَنْ لِبَاسِ الْقَسِّيِّ، وعَنِ الْقِرَاءَةِ فِي الرُّكُوعِ والسُّجُودِ وعَنْ لُبْسِ الْمُعَصْفَرِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

1737. 'Alī bin Abī Ṭālib said: "The Messenger of Allāh ﷺ prohibited me from rings of gold, and from wearing *Al-Qassī*, and from reciting in the bowing and prostration positions, and from wearing what was dyed with *'Uṣfur*." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

تخريج: [صحيح] وأخرجه مسلم، الصلاة، باب النهي عن قراءة القرآن في الركوع والسجود، ح: ٤٨٠ من حديث الزهري، والنسائي: ٢/ ٢١٧، ح: ١١١٩ من حديث إبراهيم بن عبدالله به مختصرًا ومطولًا.

Comments:

Gold, silk and safflower are, as already discussed, are prohibited for men. *Rukū'* (bowing) and *Sujūd* (prostration) are also not meant for the recitation of the Qur'ān. They are meant for the glorification and praise of Allāh as well as for seeking forgiveness from Him. Therefore, reciting the Qur'ān is not right while bowing and prostrating. The prohibition to one in the *Ummah* by the Messenger ﷺ is a prohibition to all of the *Ummah* except as otherwise stated.

1738. 'Imrān bin Ḥuṣain said: "The Messenger of Allāh ﷺ prohibited us from (wearing) rings of gold." (***Hasan***)

[He said:] There are narrations on this topic from 'Alī, Ibn 'Umar, Abū Hurairah, and Mu'āwiyah. [Abū 'Eīsā said:] The *Ḥadīth* of 'Imrān is a *Ḥasan Ḥadīth*. Abū At-Tayyāḥ's (a narrator) name is Yazīd bin Ḥumaid.

١٧٣٨ - **حَدَّثَنَا** يُوسُفُ بْنُ حَمَّادٍ المَعْنِيُّ البَصْرِيُّ: حَدَّثَنَا عَبْدُ الوَارِثِ بْنُ سَعِيدٍ عَنْ أَبِي التَّيَّاحِ: حَدَّثَنَا حَفْصٌ اللَّيْثِيُّ قَالَ: أَشْهَدُ عَلَى عِمْرَانَ بْنِ حُصَيْنٍ أَنَّهُ حَدَّثَنَا أَنَّهُ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ التَّخَتُّمِ بالذَّهَبِ.

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ وابْنِ عُمَرَ وأَبِي هُرَيْرَةَ ومُعَاوِيَةَ [قَالَ أَبُو عِيسَى:] حَدِيثُ عِمْرَانَ حَدِيثٌ حَسَنٌ. وأَبُو التَّيَّاحِ اسْمُهُ يَزِيدُ بْنُ حُمَيْدٍ.

تخريج: [**إسناده حسن**] وأخرجه النسائي، الزينة، باب حديث أبي هريرة والاختلاف على قتادة، :٨/ ١٧٠، ح:٥١٩٠ عن يوسف بن حماد به مطولاً وللحديث شواهد كثيرة * وفي الباب عن علي [مسلم، ح:٤٨٠] وابن عمر [يأتي:١٧٤١ والنسائي، ح:٥١٦٧] وأبي هريرة [البخاري، ح:٥٨٦٤ ومسلم، ح:٢٠٨٩] ومعاوية [لعله يشير إلى حديث أبي داود، ح:٤٢٣٩].

Comments:

Imām Nawawī has said: "There is consensus among Muslims on the point that rings of gold are permissible for women but prohibited for men". (*Ṣaḥīḥ Muslim*, v.3, p.195; *Tuḥfat Al-Aḥwadhī*, v.3, p. 50)

Chapter 14. What Has Been Related About The Silver Ring

(المعجم ١٤) - **بَابُ مَا جَاءَ فِي خَاتَمِ الْفِضَّةِ** (التحفة ١٤)

1739. Anas narrated: "The Prophet ﷺ had a ring made of silver and its stone (*Faṣṣ*) was Ethiopian."[1] (***Ṣaḥīḥ***)

He said: There are narrations on this topic from Ibn 'Umar, and Buraidah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route.

١٧٣٩ - **حَدَّثَنَا** قُتَيْبَةُ وغَيْرُ وَاحِدٍ عَنْ عَبْدِ اللهِ بْنِ وَهْبٍ، عَنْ يُونُسَ، عَنِ ابْنِ شِهَابٍ، عَنْ أَنَسٍ قَالَ: كانَ خَاتَمُ النَّبِيِّ ﷺ مِنْ وَرِقٍ وكانَ فَصُّهُ حَبَشِيًّا.

قَالَ: وفِي الْبَابِ عَنِ ابْنِ عُمَرَ وبُرَيْدَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: متفق عليه، أخرجه مسلم، اللباس والزينة، باب: في خاتم الورق فصه حبشي،

[1] The meaning of *Faṣṣ* is either what has the name of its owner engraved on it, or a stone. It was called "Ethiopian" because it was mined in Ethiopia. See *Tuḥfat Al-Aḥwadhī*.

ح: ٢٠٩٤ من حديث ابن وهب والبخاري، ح: ٥٨٦٨ من حديث يونس به * وفي الباب عن ابن عمر [الترمذي في الشمائل، ح: ١٠٠] وبريدة [يأتي: ١٧٨٥].

Comments:

The *Hadīth* shows that the stone in the Prophet's ring (probably agate) was from Ethiopia. However, the next chapter tells us that only the engraving on the silver in the ring was made after the Ethiopian model. It is also possible that at times it was from silver while at others it was of stone or agate (*Tuhfat Al-Ahwadhī*, v.3, p. 50)

Chapter 15. What Has Been Related About What Is Recommended For A Ring's *Fass*

(المعجم ١٥) - بَابُ مَا جَاءَ مَا يُسْتَحَبُّ فِي فَصِّ الْخَاتَمِ (التحفة ١٥)

1740. Anas narrated: "The ring of the Messenger of Allāh ﷺ was made of silver, its *Fass* was from it."[1] (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh Gharīb* from this route.

١٧٤٠ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا حَفْصُ بْنُ عُمَرَ بْنِ عُبَيْدٍ [اللهِ] الطَّنَافِسِيُّ: حَدَّثَنَا زُهَيْرٌ أَبُو خَيْثَمَةَ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ قَالَ: كَانَ خَاتَمُ رَسُولِ اللهِ ﷺ مِنْ فِضَّةٍ فَصُّهُ مِنْهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: [**صحيح**] وأخرجه أبو داود، الخاتم، باب ماجاء في اتخاذ الخاتم، ح: ٤٢١٧ والنسائي، ح: ٥٢٠٣ من حديث زهير به ورواه البخاري، ح: ٥٨٧٠ وغيره من حديث معتمر عن حميد عن أنس به.

Chapter 16. What Has Been Related About Wearing The Ring On The Right Hand

(المعجم ١٦) - بَابُ مَا جَاءَ فِي لُبْسِ الْخَاتَمِ فِي الْيَمِينِ (التحفة ١٦)

1741. Ibn 'Umar narrated: "The Prophet ﷺ had a ring of gold made for him which he wore on his right (hand). Then he sat on the *Minbar* and said: 'I did indeed have this ring on my right hand' then he discarded it, and the people discarded their rings." (***Sahīh***)

[He said:] There are narrations on this topic from 'Alī, Jābir,

١٧٤١ - حَدَّثَنَا مُحَمَّدُ بْنُ عُبَيْدٍ الْمُحَارِبِيُّ: حَدَّثَنَا عَبْدُ الْعَزِيزِ بْنُ أَبِي حَازِمٍ عَنْ مُوسَى بْنِ عُقْبَةَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ صَنَعَ خَاتَمًا مِنْ ذَهَبٍ فَتَخَتَّمَ بِهِ فِي يَمِينِهِ ثُمَّ جَلَسَ عَلَى الْمِنْبَرِ فَقَالَ: «إِنِّي كُنْتُ اتَّخَذْتُ هٰذَا الْخَاتَمَ فِي يَمِينِي»، ثُمَّ نَبَذَهُ وَنَبَذَ النَّاسُ خَوَاتِيمَهُمْ.

[1] Part of the ring was engraved (or inlaid), or had a stone in it. See *Tuhfat Al-Ahwadhī*.

'Abdullāh bin Ja'far, Ibn 'Abbās, 'Āishah, and Anas.

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Umar is a *Hasan Sahīh Hadīth*. This *Hadīth* has been reported similarly from Nāfi', from Ibn 'Umar, through routes other than this, and it was not mentioned in it that the ring was on his right hand.

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ وجَابِرٍ وعَبْدِ اللهِ بْنِ جَعْفَرٍ وابْنِ عَبَّاسٍ وَعَائِشَةَ وأَنَسٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ هٰذَا الحَدِيثُ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ نَحْوَ هٰذَا مِنْ غَيْرِ هٰذَا الْوَجْهِ، ولَمْ يَذْكُرْ فِيهِ أَنَّهُ تَخَتَّمَ في يَمِينِهِ.

تخريج: وأخرجه مسلم، اللباس والزينة، باب تحريم خاتم الذهب على الرجال . . . إلخ، ح:٢٠٩١ من حديث موسى بن عقبة به * وفي الباب عن علي [الترمذي في الشمائل، ح:٩٤، ٩٥ وأبو داود، ح:٤٢٢٦] وجابر [الترمذي في الشمائل، ح:٩٨] وعبدالله بن جعفر [يأتي: ١٧٤٤] وابن عباس [يأتي:١٧٤٢] وعائشة [البزار (كشف الأستار):٣/ ٣٧٧، ح:٢٩٩١] وأنس [مسلم، ح:٢٠٩٤/ ٦٢].

Comments:

Scholars consider it allowed to wear the ring either on the right hand or the left. It may, however, be noted that if the ring is meant to be used at all times for decorative purposes, then it is better to wear it on the right. In case it is used for a shorter period and for a specific purpose like sealing the documents etc., then the best thing would be to wear it on the left.

1742. Aṣ-Ṣalt bin 'Abdullāh bin Nawfal said, "Ibn 'Abbās wore a ring on his right hand. And I do not doubt that he said; 'I saw the Messenger of Allāh ﷺ wearing a ring on his right hand.'" (***Hasan***)

[Abu 'Eīsā said:] Muhammad bin Ismā'īl said: "The *Hadīth* of Muhammad bin Ishāq from Aṣ-Ṣalt bin 'Abdullāh bin Nawfal is a *Hasan Sahīh Hadīth*.

١٧٤٢ - **حَدَّثَنَا** مُحَمَّدُ بْنُ حُمَيْدٍ الرَّازِيُّ: حَدَّثَنَا جَرِيرٌ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنِ الصَّلْتِ بْنِ عَبْدِ اللهِ بْنِ نَوْفَلٍ قَالَ: رَأَيْتُ ابْنَ عَبَّاسٍ يَتَخَتَّمُ في يَمِينِهِ ولَا إِخَالُهُ إِلَّا قَالَ: رَأَيْتُ رَسُولَ اللهِ ﷺ يَتَخَتَّمُ في يَمِينِهِ.

[قَالَ أَبُو عِيسَى:] قَالَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ: حَدِيثُ مُحَمَّدِ بْنِ إِسْحَاقَ عَنِ الصَّلْتِ بْنِ عَبْدِ اللهِ بْنِ نَوْفَلٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: **[إسناده حسن]** وأخرجه أبو داود، الخاتم، باب ماجاء في التختم في اليمين أو اليسار، ح:٤٢٢٩ من حديث ابن إسحاق به وصرح بالسماع.

1743. Ja'far bin Muhammad narrated from his father who said: "Al-Hasan and Al-Husain wore their ring on their left hand." (***Da'īf***)

١٧٤٣ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا حَاتِمُ بْنُ إِسْمَاعِيلَ عَنْ جَعْفَرِ بْنِ مُحَمَّدٍ، عَنْ أَبِيهِ قَالَ: كانَ الحَسَنُ وَالحُسَيْنُ يَتَخَتَّمَانِ في يَسَارِهِمَا.

This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: **[إسناده ضعيف]** وأخرجه الطبراني في الكبير: ٣/ ٢٣، ح: ٢٥٤٠ من حديث حاتم والبيهقي: ٤/ ١٤٣ من حديث جعفر به مطولًا ومختصرًا، والسند منقطع.

1744. Ḥammād bin Salamah narrated: "I saw Ibn Abi Rāfi' [and he is 'Ubaidullāh bin Abī Rāfi', the freed slave of the Messenger of Allāh ﷺ – and Aslam was the name of Ibn Abī Rāfi] wearing a ring on his right, so I asked him about that. He said, 'I saw 'Abdullāh bin Ja'far wearing a ring on his right, and he ['Abdullāh bin Ja'far] said; "The Messenger of Allāh ﷺ wore a ring on his right hand." (***Ṣaḥīḥ***)

[He said:] Muḥammad [bin Ismā'īl] said: "This is the most correct thing related from the Prophet ﷺ on this topic."

١٧٤٤ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ عَنْ حَمَّادِ بْنِ سَلَمَةَ قَالَ: رَأَيْتُ ابْنَ أَبِي رَافِعٍ [هُوَ عُبَيْدُ اللهِ بْنُ أَبِي رَافِعٍ مَوْلَى رَسُولِ اللهِ ﷺ واسْمُ ابْنِ أَبِي رَافِعٍ أَسْلَمُ] يَتَخَتَّمُ فِي يَمِينِهِ فَسَأَلْتُهُ عَنْ ذٰلِكَ فَقَالَ: رَأَيْتُ عَبْدَ اللهِ بْنَ جَعْفَرٍ يَتَخَتَّمُ فِي يَمِينِهِ، وقَالَ [عَبْدُاللهِ بْنُ جَعْفَرٍ]: كَانَ النَّبِيُّ ﷺ يَتَخَتَّمُ فِي يَمِينِهِ.

[قَالَ: و]قَالَ مُحَمَّدُ [بْنُ إِسْمَاعِيلَ]: هٰذَا أَصَحُّ شَيْءٍ رُوِيَ عَنِ النَّبِيِّ ﷺ فِي هٰذَا الْبَابِ.

تخريج: **[إسناده صحيح]** وأخرجه النسائي، الزينة، باب موضع الخاتم من اليد . . . إلخ، ٨/ ١٧٥، ح: ٥٢٠٧ من حديث حماد بن سلمة به وللحديث شواهد عند أبي داود، ح: ٤٢٢٦ وغيره.

Chapter 17. What Has Been Related About Engraving On Rings

(المعجم ١٧) - بَابُ مَا جَاءَ فِي نَقْشِ الْخَاتَمِ (التحفة ١٧)

1745. Anas bin Mālik narrated: "The Messenger of Allāh ﷺ had a ring made from silver, so he had 'Muḥammad, the Messenger of Allāh' engraved on it. Then he said: 'Do not engrave with it.'"(***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ṣaḥīḥ Ḥasan*. As for the meaning of his saying: "Do not engrave with it" – he was prohibiting that anyone have "Muḥammad,

١٧٤٥ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا مَعْمَرٌ عَنْ ثَابِتٍ، عَنْ أَنَسِ بْنِ مَالِكٍ أَنَّ النَّبِيَّ ﷺ صَنَعَ خَاتَمًا مِنْ وَرِقٍ فَنَقَشَ فِيهِ: مُحَمَّدٌ رَسُولُ اللهِ، ثُمَّ قَالَ: «لَا تَنْقُشُوا عَلَيْهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ صَحِيحٌ حَسَنٌ. ومَعْنَى قَوْلِهِ: «لا تَنْقُشُوا عَلَيْهِ» نَهَى أَنْ يَنْقُشَ أَحَدٌ عَلَى خَاتَمِهِ مُحَمَّدٌ رَسُولُ اللهِ.

Messenger of Allāh" engraved on his ring.

تخريج: [إسناده صحيح] وأخرجه أحمد: ٣/ ١٦١ عن عبدالرزاق به.

Comments:

The Messenger of Allāh ﷺ used the ring to seal his letters etc. If others were also allowed to use the same inscription on their rings, it would create confusion through identity mix-up.

1746. Anas narrated: "When the Messenger of Allāh ﷺ entered the area in which he would relieve himself, he would remove his ring." (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb.*

١٧٤٦ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا سَعِيدُ بْنُ عَامِرٍ والْحَجَّاجُ بْنُ مِنْهَالٍ قَالَا: حَدَّثَنَا هَمَّامٌ عَنِ ابْنِ جُرَيْجٍ، عَنِ الزُّهْرِيِّ، عَنْ أَنَسٍ قَالَ: كانَ رَسُولُ اللهِ ﷺ إِذَا دَخَلَ الْخَلَاءَ نَزَعَ خَاتَمَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

تخريج: [إسناده ضعيف] وأخرجه النسائي، الزينة، باب نزع الخاتم عند دخول الخلاء: ٨/ ١٧٨، ح: ٥٢١٦ من حديث سعيد بن عامر، وأبو داود، ح: ١٩ وابن ماجه، ح: ٣٠٣ من حديث همام بن يحيى به * ابن جريج عنعن.

Comments:

The *Ḥadīth* conveys by implication the abiding message that, with anything worthy of our reverence or respect on our person, we must never enter the toilets.

1747. Anas bin Mālik narrated: "The inscription on the ring of the Prophet ﷺ was in three lines: 'Muḥammad' on a line, 'Messenger' on a line, and 'Allāh' on a line." (*Ṣaḥīḥ*)

١٧٤٧ - [حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى: حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللهِ الْأَنْصَارِيُّ: حَدَّثَنِي أَبِي عَنْ ثُمَامَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: كانَ نَقْشُ خَاتَمِ النَّبِيِّ ﷺ ثَلَاثَةَ أَسْطُرٍ: مُحَمَّدٌ سَطْرٌ، وَرَسُولٌ سَطْرٌ، واللهُ سَطْرٌ].

تخريج: وأخرجه البخاري، اللباس، باب: هل يجعل نقش الخاتم ثلاثة أسطر؟، ح: ٥٨٧٨ عن محمد بن عبدالله الأنصاري به.

1748. Anas bin Mālik narrated: "The inscription on the ring of the Prophet ﷺ was in three lines: 'Muḥammad' on a line, 'Messenger' on a line, and 'Allāh' on a line." And Muḥammad bin Yaḥyā (one of

١٧٤٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ ومُحَمَّدُ ابْنُ يَحْيَى وغَيْرُ وَاحِدٍ قَالُوا: حَدَّثَنَا مُحَمَّدُ ابْنُ عَبْدِ اللهِ الْأَنْصَارِيُّ: حَدَّثَنِي أَبِي عَنْ ثُمَامَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: كانَ نَقْشُ

خَاتَمِ النَّبِيِّ ﷺ ثَلَاثَةَ أَسْطُرٍ: مُحَمَّدٌ سَطْرٌ، وَرَسُولٌ سَطْرٌ، واللهُ سَطْرٌ ولَمْ يَقُلْ مُحَمَّدُ بْنُ يَحْيى فِي حَدِيثِهِ ثَلَاثَةَ أَسْطُرٍ.

وَفِي الْبَابِ عَنِ ابْنِ عُمَرَ

قَالَ أَبُو عِيسَى: حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

the two who narrated this to him) did not say "Three lines" in his narration. (*Ṣaḥīḥ*)

There are narrations on this topic from Ibn 'Umar.

Abū 'Eīsā said: The *Ḥadīth* of Anas is a *Ḥasan Ṣaḥīḥ Gharīb Ḥadīth*.

تخريج: [صحيح] انظر الحديث السابق * وفي الباب عن ابن عمر [البخاري، ح:٥٨٦٥ ومسلم، ح:٢٠٩١/ ٥٤، ٥٥].

Chapter 18. What Has Been Related About Images

(المعجم ١٨) - **بَابُ مَا جَاءَ فِي الصُّورَةِ** (التحفة ١٨)

١٧٤٩ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا رَوْحُ بْنُ عُبَادَةَ: حَدَّثَنَا ابْنُ جُرَيْجٍ: حَدَّثَنِي أَبُو الزُّبَيْرِ عَنْ جَابِرٍ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ الصُّورَةِ فِي الْبَيْتِ، وَنَهَى أَنْ يُصْنَعَ ذَلِكَ.

قَالَ: وفِي الْبَابِ عَنْ عَلِيٍّ وَأَبِي طَلْحَةَ وَعَائِشَةَ وأَبِي هُرَيْرَةَ وأَبِي أَيُّوبَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ جَابِرٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

1749. Jābir narrated: "The Messenger of Allāh ﷺ prohibited having images in the house, and he prohibited making them." (*Ṣaḥīḥ*)

He said: There are narrations on this topic from 'Alī, Abū Ṭalḥah, 'Āishah, Abū Hurairah, and Abū Ayyūb.

[Abū 'Eīsā said:] The *Ḥadīth* of Jābir is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

تخريج: [إسناده صحيح] وأخرجه أحمد:٣/ ٣٨٣ عن روح به مطولًا وهذا مختصر منه، وصححه ابن حبان، ح:١٤٨٥ * ابن جريج وأبوالزبير صرحا بالسماع * وفي الباب عن علي [ابن ماجه، ح:٣٣٥٩ والنسائي، ح:٥٣٥٣] وأبي طلحة [يأتي:١٧٥٠] وعائشة [البخاري، ح:٥٩٥٥ ومسلم، ح:٢١٠٧] وأبي هريرة [البخاري، ح:٧٠٤٢ والنسائي، ح:٥٣٦٢] وأبي أيوب [الطحاوي في معاني الآثار:٤/ ٢٨٢].

Comments:

The very foundation of Islam is *Tawḥīd* (belief in singling out Allāh as He is with all His attributes). It is, thus, in direct opposition to the profession and practice of idolatry and polytheism in all its forms and manifestations. That is why anything and all things that could even remotely promote or lead to polytheism are prohibited in Islam. It is for this reason that the making of images of animate objects or keeping them in the house are prohibited in Islam. (*Ṣaḥīḥ Muslim*, Book of Dress and Ornaments & *Tuḥfat Al-Aḥwadhī*, v.2, p. 53)

1750. Abū An-Naḍr narrated from 'Ubaidullāh bin 'Abdullāh bin 'Utbah, that he entered upon Abū Ṭalḥah Al-Anṣārī to pay him a visit (while he was ill), and he found Sahl bin Ḥunaif with him. He said: "Abū Ṭalḥah called for someone to remove a sheet that was under him. Sahl said to him: 'Why did you remove it?' He replied: 'Because it contains images on it, and the Prophet ﷺ said about them what you know[1] .' Sahl said: 'Did he not say: 'Except for markings on a garment?' he said: 'Yes, but this is better to me.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٧٥٠ - حَدَّثَنَا إِسْحَاقُ بْنُ مُوسَى الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنْ أَبِي النَّضْرِ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ عُتْبَةَ: أَنَّهُ دَخَلَ عَلَى أَبِي طَلْحَةَ الْأَنْصَارِيِّ يَعُودُهُ فَوَجَدَ عِنْدَهُ سَهْلَ بْنَ حُنَيْفٍ، قَالَ: فَدَعَا أَبُو طَلْحَةَ إِنْسَانًا يَنْزِعُ نَمَطًا تَحْتَهُ، فَقَالَ لَهُ سَهْلٌ: لِمَ تَنْزِعُهُ؟ فَقَالَ: لِأَنَّ فِيهَا تَصَاوِيرَ، وَ[قَدْ] قَالَ فِيهِ النَّبِيُّ ﷺ ما قَدْ عَلِمْتَ، قَالَ سَهْلٌ: أَوَلَمْ يَقُلْ: إِلَّا مَا كَانَ رَقْمًا فِي ثَوْبٍ؟ فَقَالَ: بَلَى، وَلَكِنَّهُ أَطْيَبُ لِنَفْسِي.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه النسائي، الزينة، باب التصاوير: ٨/ ٢١٢، ح: ٥٣٥١ من حديث معن به وهو في الموطإ: ٢/ ٩٦٦.

Comments:

The word *Raqm* used in the *Ḥadīth* means embroideries etc., woven into the cloth for beautification, which either do not contain the images of animate object or are in the form of separate parts of the body that do not make a complete picture.

Chapter 19. What Has Been Related About Imagemakers

(المعجم ١٩) - بَابُ مَا جَاءَ فِي الْمُصَوِّرِينَ (التحفة ١٩)

1751. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "Whoever fashions an image, he will be punished by Allāh until he breathes into it – meaning the soul – and he can not breath (a soul) into it. And whoever listens to a people's conversation, while they have gone away from him for it,

١٧٥١ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ صَوَّرَ صُورَةً عَذَّبَهُ اللهُ حَتَّى يَنْفُخَ فِيهَا، يَعْنِي الرُّوحَ، وَلَيْسَ بِنَافِخٍ فِيهَا، ومن اسْتَمَعَ إِلَى حَدِيثِ قَوْمٍ يَفِرُّونَ بِهِ مِنْهُ صُبَّ فِي أُذُنِهِ الآنُكُ يَوْمَ

[1] That is - His ﷺ statement that the angels do not enter houses wherein there are images or his prohibition of having images in the house.

الْقِيَامَةِ».

قَالَ: وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ مَسْعُودٍ وأَبِي هُرَيْرَةَ وأَبِي جُحَيْفَةَ وعَائِشَةَ وابْنِ عُمَرَ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ.

then He will have lead poured into his ears on the Day of Judgement." (*Ṣaḥīḥ*)

He said: There are narrations on this topic from 'Abdullāh bin Mas'ūd, Abū Hurairah, Abū Juḥaifah, 'Āishah, and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Ibn 'Abbās is a *Ḥasan Ṣaḥīḥ Ḥadīth*.

تخريج: وأخرجه البخاري، التعبير، باب من كذب في حلمه، ح:٧٠٤٢ من حديث أيوب السختياني به * وفي الباب عن عبدالله بن مسعود [البخاري، ح:٥٩٥٠ ومسلم، ح:٢١٠٩] وأبي هريرة [البخاري، ح:٥٩٥٣ ومسلم، ح:٢١١١] وأبي جحيفة [البخاري، ح:٥٩٦٢] وعائشة [البخاري، ح:٥٩٥٤ ومسلم، ح:٢١٠٧] وابن عمر [البخاري، ح:٥٩٥١ ومسلم، ح:٢١٠٨].

Comments:

Image making is like competing with God, since fashioning forms is a special attribute of Allāh. Hence it is that one of His most beautiful Names given in the Qur'ān is *Musawwir* (the Fashioner or Bestower of Forms). Thus, anyone who makes the image of a living thing, by implication makes the claim that he can also fashion the forms.

(المعجم ٢٠) - بَابُ مَا جَاءَ فِي الْخِضَابِ (التحفة ٢٠)

Chapter 20. What Has Been Related About The Dye

١٧٥٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو عَوَانَةَ عَنْ عُمَرَ بْنِ أَبِي سَلَمَةَ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «غَيِّرُوا الشَّيْبَ ولَا تَشَبَّهُوا بِالْيَهُودِ».

[قَالَ:] وفِي الْبَابِ عَنِ الزُّبَيْرِ وابْنِ عَبَّاسٍ وجَابِرٍ وأَبِي ذَرٍّ وأَنَسٍ وأَبِي رِمْثَةَ والْجَهْدَمَةِ وأَبِي الطُّفَيْلِ وجَابِرِ بْنِ سَمُرَةَ وأَبِي جُحَيْفَةَ وابْنِ عُمَرَ. [قَالَ أَبُو عِيسَى:] حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

1752. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Change the gray, and do not resemble the Jews." (*Ḥasan*)

[He said:] There are narrations on this topic from Az-Zubair, Ibn 'Abbās, Jābir, Abū Dharr, Anas, Abū Rimthah, Al-Jahdamah, Abū Aṭ-Ṭufail, Jābir bin Samurah, Abū Juḥaifah, and Ibn 'Umar.

[Abū 'Eīsā said:] The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ Ḥadīth*, and it has been reported through other routes from Abū Hurairah from the Prophet ﷺ.

تخريج: [إسناده حسن] * وفي الباب عن الزبير [النسائي: ٨/ ١٣٧، ح: ٥٠٧٧] وابن عباس [أبو داود، ح: ٤٢١١، ٤٢١٢] وجابر [مسلم، ح: ٢١٠٢] وأبي ذر [يأتي: ١٧٥٣] وأنس [أحمد: ٣/ ٢٤٧] وأبي رمثة [الترمذي في الشمائل، ح: ٤٥] والجهدمة [الترمذي في الشمائل، ح: ٤٧] وأبي الطفيل [البزار (كشف الأستار): ٣/ ٣٧٢، ح: ٢٩٧٦] وجابر بن سمرة [الترمذي في الشمائل، ح: ٤٤ ومسلم، ح: ٢٣٤٤/ ١١٠] وأبي جحيفة [لعله يشير إلى حديث الترمذي في الشمائل، ح: ٤٢] وابن عمر [النسائي، ح: ٥٠٧٦].

Comments:

The exhortation of the Prophet ﷺ regarding dye, as pointed out by the noted scholar Shaikh Safīur-Raḥmān, may Allāh have mercy upon him, is, in fact, recommendatory not mandatory (*Minnat Al-Mun'im*, v.3, p. 407).

1753. Abū Dharr narrated that the Prophet ﷺ said: "Indeed the best of what the gray may be changed with is Ḥennā' and *Katam*." (*Ṣaḥīḥ*)

[Abū 'Eīsā said: This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Abū Al-Aswad Ad-Dīlī's (a narrator in this chain) name is Ẓālim bin 'Amr bin Sufyān.

١٧٥٣ - حَدَّثَنَا سُوَيْدُ بْنُ نَصْرٍ: أَخْبَرَنَا ابْنُ الْمُبَارَكِ عَنِ الْأَجْلَحِ، عَنْ عَبْدِ اللهِ بْنِ بُرَيْدَةَ، عَنْ أَبِي الْأَسْوَدِ، عَنْ أَبِي ذَرٍّ عَنِ النَّبِيِّ ﷺ قَالَ: «إِنَّ أَحْسَنَ ما غُيِّرَ بِهِ الشَّيْبُ الْحِنَّاءُ والكَتَمُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَأَبُو الْأَسْوَدِ الدِّيلِيُّ اسْمُهُ ظَالِمُ بْنُ عَمْرِو بْنِ سُفْيَانَ.

تخريج: [صحيح] وأخرجه ابن ماجه، اللباس، باب الخضاب بالحناء، ح: ٣٦٢٢ والنسائي: ٨/ ١٣٩، ح: ٥٠٨١ من حديث الأجلح، وأبو داود، ح: ٤٢٠٥ من حديث ابن بريدة به وصححه ابن حبان، ح: ١٤٧٥.

Comments:

Katam is a kind of herb that gives reddish black color. Mixed with Henna and applied to hair, it gives out color that is somewhere between red and black. The idea behind using the mixture of the two dyes is to avoid parading pure black and give a clear indication that the hair has in fact turned gray and the color now showing on it is not real.

Chapter 21. What Has Been Related About Hair Reaching The Shoulders And Cutting The Hair

(المعجم ٢١) - بَابُ مَا جَاءَ فِي الْجُمَّةِ وَاتِّخَاذِ الشَّعْرِ (التحفة ٢١)

1754. Anas narrated: "The Messenger of Allāh ﷺ was of average height, neither tall nor very short, he had a good build, brown

١٧٥٤ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ حُمَيْدٍ، عَنْ أَنَسٍ قَالَ: كَانَ رَسُولُ اللهِ ﷺ رَبْعَةً لَيْسَ بِالطَّوِيلِ وَلَا

in complexion, his hair was neither curly nor straight, and when he walked he swayed slightly." (***Sahīh***)

He said: There are narrations on this topic from 'Āishah, Al-Barā', Abū Hurairah, Ibn 'Abbās, Abū Sa'eed, Jābir, Wā'il bin Hujr, and Umm Hāni'.

[Abū 'Eīsā said:] The *Hadīth* of Anas is a *Hasan Sahīh Gharīb Hadīth* from this route, as a narration of Humaid.

بِالْقَصِيرِ حَسَنَ الْجِسْمِ، أَسْمَرَ اللَّوْنِ، وكانَ شَعْرُهُ لَيْسَ بِجَعْدٍ ولَا سَبْطٍ إِذَا مَشَى يَتَكَفَّأُ.

قَالَ: وفِي الْبَابِ عَنْ عَائِشَةَ والْبَرَاءِ وأَبِي هُرَيْرَةَ وابْنِ عَبَّاسٍ وأَبِي سَعِيدٍ وجابِرٍ وَوَائِلِ ابْنِ حُجْرٍ وأُمِّ هَانِيءٍ.

[قَالَ أَبُو عِيسَى:] حَدِيثُ أَنَسٍ حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ حُمَيْدٍ.

تخريج: وأخرجه مسلم، الفضائل، باب صفة شعر النبي ﷺ، ح:٢٣٣٨ من حديث حميد به ورواه البخاري، ح:٣٥٤٧ من حديث أنس رضي الله عنه * وفي الباب عن عائشة [يأتي:١٧٥٥] والبراء [الترمذي في الشمائل، ح:٢٦] وأبي هريرة [أبو داود، ح:٤١٦٣] وابن عباس [الترمذي في الشمائل، ح:٣٠] وأبي سعيد [لم أجده] وجابر [أبو داود، ح:٤٠٦٢] ووائل بن حجر [أبو داود، ح:٤١٩٠] وأم هانئ [الترمذي في الشمائل، ح:٢٨].

1755. 'Āishah said: "I and the Messenger of Allāh ﷺ would perform *Ghusl* using (water from) the same vessel. He had hair reaching above his shoulders and below his earlobes." (***Hasan***)

This *Hadīth* is *Hasan Sahīh Gharīb* from this route.

[Abū 'Eīsā said:] It has been reported from other routes that 'Āishah said: "I and the Messenger of Allāh ﷺ would perform *Ghusl* using (water from) the same vessel." And the following statement is not mentioned in it: "He had hair reaching above his shoulders [and below his earlobes]."

It was only mentioned by 'Abdur-Rahmān bin Abī Az-Zinād, and he is trustworthy, a *Hāfiz*, [and Mālik bin Anas stated that he was trustworthy and ordered recording

١٧٥٥ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ أَبِي الزِّنَادِ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: كُنْتُ أَغْتَسِلُ أَنَا وَرَسُولُ اللهِ صَلَّى اللهُ عَلَيْهِ وسَلَّمَ مِنْ إِنَاءٍ وَاحِدٍ، وكانَ لَهُ شَعْرٌ فَوْقَ الْجُمَّةِ وَدُونَ الوَفْرَةِ.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

[قَالَ أَبُو عِيسَى:] وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ عَائِشَةَ أَنَّهَا قَالَتْ: كُنْتُ أَغْتَسِلُ أَنَا وَرَسُولُ اللهِ ﷺ مِنْ إِنَاءٍ وَاحِدٍ، وَلَمْ يَذْكُرُوا فِيهِ هٰذَا الْحَرْفَ وكانَ لَهُ شَعْرٌ فَوْقَ الجُمَّةِ [ودُونَ الْوَفْرَةِ]. وَإِنَّما ذَكَرَهُ عَبْدُ الرَّحْمٰنِ بْنُ أَبِي الزِّنَادِ وهُو ثِقَةٌ حافِظٌ [كانَ مَالِكُ بْنُ

(*Aḥādīth*) from him].

أَنَس يُوثِّقُهُ وَيَأْمُرُ بِالْكِتَابَةِ عَنْهُ].

تخريج: [إسناده حسن] وأخرجه أبو داود، الترجل، باب ما جاء في الشعر، ح:٤١٨٧ وابن ماجه، ح:٣٦٣٥ من حديث عبدالرحمن بن أبي الزناد به.

Comments:

Long hair is of three types; (i) *Jummah*: that reaches the shoulders; (ii) *Wafrah*: that reaches the earlobes; and (iii) *Limmah*: of medial length (between *Jummah* and *Wafrah*) that dangles between the earlobes and the shoulders.

Chapter 22. What Has Been Related About The Prohibition Of Combing Except Every Other Day

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ التَّرَجُّلِ إِلَّا غِبًّا (التحفة ٢٢)

1756. 'Abdullāh bin Mughaffal said: "The Messenger of Allāh ﷺ prohibited combing except every other day." (*Ḍa'īf*)[1]

(Another chain) with similar meaning.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. He said: There is something on this topic from Anas.

١٧٥٦ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: أَخْبَرَنَا عِيسَى بْنُ يُونُسَ عَنْ هِشَامٍ، عَنِ الْحَسَنِ، عَنْ عَبْدِ اللهِ بْنِ مُغَفَّلٍ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ التَّرَجُّلِ إِلَّا غِبًّا.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ هِشَامٍ [عَنِ الْحَسَنِ] بِهٰذَا الْإِسْنَادِ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

قَالَ: وَفِي الْبَابِ عَنْ أَنَسٍ.

تخريج: [إسناده ضعيف] وأخرجه النسائي، الزينة، باب الترجل غبًّا، ٨/ ١٣٢، ح:٥٠٥٨ من حديث عيسى بن يونس، وأبو داود، ح:٤١٥٩ من حديث هشام بن حسان به وسنده ضعيف ولبعض الحديث شواهد عند النسائي، ح:٥٠٥٩ وغيره * وفي الباب عن أنس [الترمذي في الشمائل، ح:٣٣].

Comments:

The *Ḥadīth* is explicit on the point that we should not comb our hair every day but every other day. The idea is that we should neither show too much concern to the hair, nor totally neglect it so as to make it look disheveled.

[1] There are witnessing narrations for it, see *An-Nasā'ī* nos. 5058-5061, and *Aṣ-Ṣaḥīḥah* no. 501 where it has been graded *Ṣaḥīḥ*, and this prohibition forbids men from grooming like a woman.

Chapter 23. What Has Been Related About Using Kohl

(المعجم ٢٣) - بَابُ مَا جَاءَ فِي الاكْتِحَالِ (التحفة ٢٣)

1757. Ibn 'Abbās narrated that the Prophet ﷺ said: "Use *Ithmid*[1] for Kohl, for it clears the vision and grows the hair (eye-lashes)." And he claimed that the Prophet ﷺ had a Kohl holder with which he would apply Kohl every night, three in this (eye) and three in this. (*Da'īf*)[2]

(Another chain) with similar meaning.

[He said:] There are narrations on this topic from Jābir and Ibn 'Umar.

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Abbās is a *Hasan Gharīb Hadīth*, we do not know of it with this wording except from the narration of 'Abbād bin Manṣūr.

It has been reported through other routes that the Prophet ﷺ said: "Use *Ithmid* for it clears the vision and grows the hair (eye-lashes)."

١٧٥٧ - حَدَّثَنَا مُحَمَّدُ بْنُ حُمَيْدٍ: حَدَّثَنَا أَبُو دَاوُدَ - هُوَ الطَّيَالِسِيُّ - عَنْ عَبَّادِ بْنِ مَنْصُورٍ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ أَنَّ النَّبِيَّ ﷺ قَالَ: «اكْتَحِلُوا بِالْإِثْمِدِ، فَإِنَّهُ يَجْلُو الْبَصَرَ ويُنْبِتُ الشَّعْرَ» وزَعَمَ أَنَّ النَّبِيَّ ﷺ كانَتْ لَهُ مُكْحُلَةٌ يَكْتَحِلُ بِهَا كُلَّ لَيْلَةٍ، ثَلَاثَةً فِي هٰذِهِ وثَلَاثَةً في هٰذِهِ.

حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ ومُحَمَّدُ بْنُ يَحْيى، قَالَا: حَدَّثَنَا يَزِيدُ بْنُ هَارُونَ عَنْ عَبَّادِ بْنِ مَنْصُورٍ نَحْوَهُ.

[قَالَ:] وفِي الْبَابِ عَنْ جَابِرٍ وابْنِ عُمَرَ.

[قَالَ **أَبُو عِيسَى**:] حَدِيثُ ابْنِ عَبَّاسٍ حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ عَلَى هٰذَا اللَّفْظِ إِلَّا مِنْ حَدِيثِ عَبَّادِ بْنِ مَنْصُورٍ.

وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «عَلَيْكُمْ بِالْإِثْمِدِ فَإِنَّهُ يَجْلُو الْبَصَرَ ويُنْبِتُ الشَّعْرَ».

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الطب، باب من اكتحل وترًا، ح:٣٤٩٩ من حديث عباد بن منصور به وهو ضعيف كما في تسهيل الحاجة، ح:٣٤٧٧ وغيره * وفي الباب عن جابر [الترمذي في الشمائل، ح:٥٢] وابن عمر [الترمذي في الشمائل، ح:٥٤] * وأخرج ابن ماجه، ح:٣٤٩٧ وأبو داود، ح:٤٠٦١ وغيرهما بإسناد حسن عن ابن عباس قال: قال رسول الله ﷺ: "خير أكحالكم الإثمد، يجلو البصر وينبت الشعر".

Comments:

Ithmid (used as antimony) is a reddish black mineral procured from Isfahān. It is used to cure harmful substances in the eye and as a remedy for ailments of the eye. It clears the vision and nourishes the eye-lashes.

[1] It is the well known mineral used as Kohl.

[2] Meaning this chain, while there are authentic narrations mentioning this statement - using it - but not what comes after it in this narration - meaning: "And he claimed..." etc.

Chapter 24. What Has Been Related About The Prohibition Of *Ishtimāl Aṣ-Ṣammā'* And *Al-Iḥtibā'*

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنِ اشْتِمَالِ الصَّمَّاءِ وَالْاحْتِبَاءِ بِالثَّوْبِ الْوَاحِدِ (التحفة ٢٤)

1758. Abū Hurairah narrated: "The Messenger of Allāh ﷺ prohibited two types of dress: *Aṣ-Ṣamā'*, and that a man sits with his legs drawn up in a garment, while there is nothing covering his private area." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] There are narrations on this topic from 'Alī, Ibn 'Umar, 'Āishah, Abū Sa'eed, Jābir, and Abū Umāmah. The *Ḥadīth* of Abū Hurairah is a *Ḥasan Ṣaḥīḥ [Gharīb Ḥadīth* from this route.]

This has been reported through other routes from Abū Hurairah from the Prophet ﷺ.

١٧٥٨ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا يَعْقُوبُ بْنُ عَبْدِ الرَّحْمٰنِ [الْإِسْكَنْدَرَانِيُّ] عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيرَةَ أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ لِبْسَتَيْنِ: الصَّمَاءِ، وَأَنْ يَحْتَبِيَ الرَّجُلُ بِثَوْبِهِ لَيْسَ عَلَى فَرْجِهِ مِنْهُ شَيْءٌ.

[قَالَ أَبُو عِيسَى:] وفِي الْبَابِ عَنْ عَلِيٍّ وابْنِ عُمَرَ وَعَائِشَةَ وأَبِي سَعِيدٍ وجَابِرٍ وَأَبِي أُمَامَةَ [و]حَدِيثُ أَبِي هُرَيْرَةَ حَسَنٌ صَحِيحٌ [غَرِيبٌ مِنْ هٰذَا الْوَجْهِ].

وَقَدْ رُوِيَ هٰذَا مِنْ غَيرِ وَجْهٍ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: [**إسناده صحيح**] ورواه البخاري، اللباس، باب الاحتباء في ثوب واحد، ح:٥٨٢٢ من حديث أبي هريرة به نحو المعنى * وفي الباب عن علي [الحاكم:٤/ ١١٩] وابن عمر [البخاري، ح:٦٢٧٢] وعائشة [ابن ماجه، ح:٣٥٦١] وأبي سعيد [البخاري، ح:٣٣٧٧] وجابر [مسلم، ح:٢٠٩٩] وأبي أمامة [لم أجده].

Comments:

Aṣ-Ṣammā' means to wrap the entire body with a garment so as to prevent even ones hands from coming out even if there be a need for self defence. It also means to cover one — shoulder with a garment and leave the other bare. The term *Al-Iḥtibā'* applies to a posture whereby a person sits on his behind with his legs to the chest and the garment wrapped in such a way as to expose his private area. See *Tuḥfat Al-Aḥwadhī.*

Chapter 25. What Has Been Related About Artificially Lengthening The Hair

(المعجم ٢٥) - بَابُ مَا جَاءَ فِي مُوَاصَلَةِ الشَّعْرِ (التحفة ٢٥)

1759. Ibn 'Umar narrated that the Prophet ﷺ said: "Allāh has cursed the woman who artificially lengthens hair and the woman who

١٧٥٩ - حَدَّثَنَا سُوَيْدُ [بْنُ نَصْرٍ]: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ أَنَّ النَّبِيَّ ﷺ قَالَ:

seeks to have her hair artificially lengthened, and the woman who tattoos and the woman who seeks to be tattooed." Nāfi' (one of the narrators) said: "Tattooing was on the gums." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[He said:] There are narrations on this topic from Ibn Mas'ūd, 'Āishah, Asmā' bint Abī Bakr, Ma'qil bin Yasār, Ibn 'Abbās, and Mu'awiyah.

«لَعَنَ اللهُ الوَاصِلَةَ والمُسْتَوصِلَةَ والوَاشِمَةَ والمُسْتَوشِمَةَ» قَالَ نَافِعٌ: الوَشْمُ في اللِّثَةِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وعائِشَةَ وأَسْمَاءَ بِنْتِ أَبِي بَكْرٍ ومَعْقِلِ بْنِ يَسَارٍ وابْنِ عَبَّاسٍ ومُعَاوِيَةَ.

تخريج: متفق عليه، أخرجه البخاري، اللباس، باب وصل الشعر، ح:٥٩٣٧ من حديث ابن المبارك ومسلم، ح٢١٢٤ من حديث عبيدالله بن عمر به وانظر، ح:٢٧٨٣ * وفي الباب عن عائشة [البخاري، ح:٥٢٠٥ ومسلم، ح:٢١٢٣] وابن مسعود [البخاري، ح:٤٨٨٦ ومسلم، ح:٢١٢٥ وأسماء بنت أبي بكر [البخاري، ح:٥٩٤١ ومسلم، ح:٢١٢٢] وابن عباس [أبو داود، ح:٤١٧٠] ومعقل بن يسار [أحمد:٥/ ٢٥] ومعاوية [البخاري، ح:٣٤٦٨ ومسلم، ح:٢١٢٧].

Chapter 26. What Has Been Related About The Riding *Mayāthir*

(المعجم ٢٦) - بَابُ مَا جَاءَ فِي رُكُوبِ الْمَيَاثِرِ (التحفة ٢٦)

1760. Al-Barā' bin 'Āzib narrated: "The Messenger of Allāh ﷺ prohibited riding (while sitting on) *Miyāthir*." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Alī and Mu'āwiyah.

The *Ḥadīth* of Al-Barā' is *Ḥasan Ṣaḥīḥ*. Shu'bah reported similarly from Ash'ath bin Abī Ash-Sha'thā' in the lengthy *Ḥadīth*.

١٧٦٠ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا عَلِيُّ بْنُ مُسْهِرٍ: حَدَّثَنَا أَبُو إِسْحَاقَ الشَّيْبَانِيُّ عَنْ أَشْعَثَ بْنِ أَبِي الشَّعْثَاءِ، عَنْ مُعَاوِيَةَ بْنِ سُوَيْدِ بْنِ مُقَرِّنٍ، عَنِ البَرَاءِ بْنِ عَازِبٍ قَالَ: نَهىٰ رَسُولُ اللهِ ﷺ عَنْ رُكُوبِ المَيَاثِرِ.

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ ومُعَاوِيَةَ.

وحَدِيثُ البَرَاءِ حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رَوَى شُعْبَةُ عَنْ أَشْعَثَ بْنِ أَبِي الشَّعْثَاءِ نَحْوَهُ. وفِي الْحَدِيثِ قِصَّةٌ.

تخريج: متفق عليه، أخرجه مسلم، اللباس والزينة، باب تحريم استعمال إناء الذهب والفضة ... إلخ، ح:٢٠٦٦ من حديث علي بن مسهر والبخاري، ح:٦٢٣٥ من حديث أبي إسحاق الشيباني به مطولاً ومختصرًا * وفي الباب عن علي [مسلم، ح:٢٠٧٨] ومعاوية [الطحاوي في مشكل الآثار:٤/ ٢٦٣].

Comments:

Mayāthir (plural of *Mītharah*) is a type of saddlecloth or cushion made either of silk or of the skin of predatory animals, both of which are prohibited in Islam.

Chapter 27. What Has Been Related About The Bed Of The Prophet ﷺ

(المعجم ٢٧) - **بَابُ مَا جَاءَ فِي فِرَاشِ النَّبِيِّ ﷺ** (التحفة ٢٧)

1761. 'Āishah said: "The only bed that the Messenger of Allāh had which he slept on was [made of a tanned skin] stuffed with palm-fibers." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

[He said:] There are narrations on this topic from Hafsah and Jābir.

١٧٦١ - حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا عَلِيُّ ابْنُ مُسْهِرٍ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: إِنَّمَا كَانَ فِرَاشُ رَسُولِ اللهِ ﷺ الَّذِي يَنَامُ عَلَيْهِ [أَدَمًا] حَشْوُهُ لِيفٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ:] وفِي الْبَابِ عَنْ حَفْصَةَ وجَابِرٍ.

تخريج: متفق عليه، وأخرجه مسلم، اللباس والزينة، باب التواضع في اللباس، والاقتصار على الغليظ منه واليسر ... إلخ، ح:٢٠٨٢ عن علي بن حجر والبخاري، ح:٦٤٥٦ من حديث هشام بن عروة به * وفي الباب عن حفصة [الترمذي في الشمائل، ح:٣٢٨] وجابر [مسلم، ح:٢٠٨٤].

Comments:

It shows that the Messenger of Allāh ﷺ used to sleep on a bed that was extremely simple and free from any finery.

Chapter 28. What Has Been Related About Shirts

(المعجم ٢٨) - **بَابُ مَا جَاءَ فِي الْقُمُصِ** (التحفة ٢٨)

1762. Umm Salamah said: "The most loved garment to the Messenger of Allāh ﷺ was the *Qamīs* (long shirt)." (***Hasan***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*. We only know of it as a narration of 'Abdul-Mu'min bin Khālid (a narrator in the chain of this *Hadīth*) who was alone in narrating it, and he is from Al-Marwaz. Some of them report this *Hadīth* from Abū Tumailah, from

١٧٦٢ - حَدَّثَنَا مُحَمَّدُ بْنُ حُمَيْدٍ الرَّازِيُّ: حَدَّثَنَا أَبُو تُمَيْلَةَ والفَضْلُ بْنُ مُوسَى وزَيْدُ بْنُ حُبَابٍ عَنْ عَبْدِ الْمُؤْمِنِ بْنِ خَالِدٍ، عَنْ عَبْدِ اللهِ بْنِ بُرَيْدَةَ، عَنْ أُمِّ سَلَمَةَ قَالَتْ: كَانَ أَحَبَّ الثِّيَابِ إِلَى رَسُولِ اللهِ ﷺ القَمِيصُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. إِنَّمَا نَعْرِفُهُ مِنْ حَدِيثِ عَبْدِ الْمُؤْمِنِ بْنِ خَالِدٍ تَفَرَّدَ بِهِ وَهُوَ مَرْوَزِيٌّ، وَرَوَى بَعْضُهُمْ هٰذَا

'Abdul-Mu'min bin Khālid, from 'Abdullāh bin Buraidah, from his mother, from Umm Salamah. He said: I heard Muḥammad bin Ismā'īl saying: "The narration of Ibn Buraidah from his mother, from Umm Salamah is more correct, Abū Tulaimah mentioned 'his mother' in it."

الْحَدِيثَ عَنْ أَبِي تُمَيْلَةَ، عَنْ عَبْدِ الْمُؤْمِنِ بْنِ خَالِدٍ، عَنْ عَبْدِ اللهِ بْنِ بُرَيْدَةَ، عَنْ أُمِّهِ، عَنْ أُمِّ سَلَمَةَ. قَالَ وَسَمِعْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ يَقُولُ: حَدِيثُ ابْنِ بُرَيْدَةَ عَنْ أُمِّهِ، عَنْ أُمِّ سَلَمَةَ أَصَحُّ وإِنَّمَا يُذْكَرُ فِيهِ أَبُو تُمَيْلَةَ عَنْ أُمِّهِ.

تخريج: [**حسن**] وأخرجه أبو داود، اللباس، باب ما جاء في القميص، ح:٤٠٢٥ من حديث الفضل بن موسى به.

1763. Umm Salamah said: "The most loved garment to the Messenger of Allāh ﷺ was the *Qamīṣ* (long shirt)." (***Ḥasan***)

١٧٦٣ - **حَدَّثَنَا** زِيَادُ بْنُ أَيُّوبَ [الْبَغْدَادِيُّ]: حَدَّثَنَا أَبُو تُمَيْلَةَ عَنْ عَبْدِ الْمُؤْمِنِ بْنِ خالِدٍ، عَنْ عَبْدِ اللهِ بْنِ بُرَيْدَةَ، عَنْ أُمِّهِ، عَنْ أُمِّ سَلَمَةَ قَالَتْ: كانَ أَحَبَّ الثِّيَابِ إِلَى رَسُولِ اللهِ ﷺ القَمِيصُ.

تخريج: [**حسن**] وأخرجه أبو داود، أيضًا، ح:٤٠٢٦ عن زياد بن أيوب به وسنده حسن.

1764. Umm Salamah said: "The most loved garment to the Messenger of Allāh ﷺ was the *Qamīṣ* (long shirt)." (***Ḥasan***)

١٧٦٤ - **حَدَّثَنَا** عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا الفَضْلُ بْنُ مُوسَى عَنْ عَبْدِ الْمُؤْمِنِ بْنِ خَالِدٍ، عَنْ عَبْدِ اللهِ بْنِ بُرَيْدَةَ، عَنْ أُمِّ سَلَمَةَ قَالَتْ: كَانَ أَحَبَّ الثِّيَابِ إِلَى رَسُولِ اللهِ ﷺ القَمِيصُ.

تخريج: [**حسن**] انظر الحديث السابق.

1765. Asmā' bint Yazīd bin As-Sakan Al-Anṣārīyyah said: "The sleeves of (the shirt) of the Messenger of Allāh ﷺ were to the wrist." (***Ḥasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*.

١٧٦٥ - **حَدَّثَنَا** عَبْدُ اللهِ بْنُ مُحَمَّدِ بْنِ الْحَجَّاجِ الصَّوَّاف البَصْرِيُّ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ الدَّسْتَوائِيُّ: حَدَّثَنِي أَبِي عَنْ بُدَيْلِ [بْنِ مَيْسَرَةَ] العُقَيْلِيِّ، عَنْ شَهْرِ بْنِ حَوْشَبٍ، عَنْ أَسْمَاءَ بِنْتِ يَزِيدَ بْنِ السَّكَنِ الأَنْصارِيَّةِ قَالَتْ: كانَ كُمُّ يَدِ رَسُولِ اللهِ ﷺ إِلَى الرُّسْغِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ.

تخريج: [إسناده حسن] وأخرجه أبو داود، أيضًا، ح:٤٠٢٧ من حديث معاذ به.

Comments:

The normal dress of the Arabs in the days of the Prophet ﷺ was a lower garment, an *Izār*, and an upper-wrap known as a *Ridā*. A long shirt was not as common. But it being more comfortable and more apt to conceal the body, the Prophet ﷺ liked it best of all.

1766. Abū Hurairah narrated: "When the Messenger of Allāh ﷺ put on a *Qamīṣ* he began with the right side." (***Ḥasan***)

[Abū 'Eīsā said:] Others have reported this *Ḥadīth* from Shu'bah with this chain, but they did not narrate it in *Marfū'* form, only 'Abduṣ-Ṣamad narrated it *Marfū'*.

١٧٦٦ - **حَدَّثَنَا** عَلِيُّ بْنُ نَصْرِ بْنِ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا عَبْدُ الصَّمَدِ بنُ عَبْدِ الوَارِثِ: حَدَّثَنَا شُعْبَةُ عَنِ الأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: كَانَ رَسُولُ اللهِ ﷺ إذا لَبِسَ قَمِيصًا بَدَأَ بِمَيَامِنِهِ.

[**قَالَ أَبُو عِيسَى**:] وَقَدْ رَوَى غَيْرُ وَاحِدٍ هذَا الْحَدِيثَ عَنْ شُعْبَةَ بِهٰذَا الإِسْنَادِ وَلَمْ يَرْفَعْهُ إِنَّمَا رَفَعَهُ عَبْدُ الصَّمَدِ.

تخريج: [إسناده حسن] وأخرجه النسائي في الكبرى، ح:٩٦٦٩ من حديث عبدالصمد به.

Comments:

The general practice of the Messenger of Allāh ﷺ was to begin doing things from the right side. Cases in point are: his performing *Wuḍū'* and *Tayammum* and the donning of garments, shoes, socks, and *Izār*, and so on.

Chapter 29. What To Say When Wearing A New Garment

(المعجم ٢٩) - بَابُ مَا يَقُولُ إِذَا لَبِسَ ثَوْبًا جَدِيدًا (التحفة ٢٩)

1767. Abū Sa'eed said: "When the Messenger of Allāh ﷺ, would wear a new garment he would mention what it was, whether an *'Imāmah*, a *Qamīṣ*, or a *Ridā'*, then he would say: *Allāhumma lakal-ḥamdu, Anta kasawtanīhi, as'aluka khairahu wa khaira mā ṣuni'a lahu, wa a'ūdhu bika min sharrihi wa sharri ma ṣuni'a lahu* "' ('O Allāh! For You is the praise, You have clothed me, I ask You for its good and the good for which it was made, and I

١٧٦٧ - **حَدَّثَنَا** سُوَيْدٌ: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ عَنْ سَعِيدٍ الْجُرَيْرِيِّ، عَنْ أَبِي نَضْرَةَ، عَنْ أَبِي سَعِيدٍ قَالَ: كَانَ رَسُولُ اللهِ ﷺ إذا اسْتَجَدَّ ثَوْبًا سَمَّاهُ بِاسْمِهِ عِمَامَةً أَوْ قَمِيصًا أَوْ رِدَاءً، ثُمَّ يَقُولُ: «اللَّهُمَّ لَكَ الْحَمْدُ أَنْتَ كَسَوْتَنِيهِ، أَسْأَلُكَ خَيْرَهُ وَخَيْرَ مَا صُنِعَ لَهُ، وَأَعُوذُ بِكَ مِنْ شَرِّهِ وَشَرِّ مَا صُنِعَ لَهُ».

[**قَالَ أَبُو عِيسَى**:] وفِي الْبَابِ عَنْ عُمَرَ وابْنِ عُمَرَ.

seek refuge in You from its evil and the evil for which it was made.) (*Ḥasan*)

[Abū 'Eīsā said:] There are narrations on this topic from 'Umar, and Ibn 'Umar.

(Another chain) with similar meaning.

And this *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*.

حَدَّثَنَا هِشَامُ بْنُ يُونُسَ الْكُوفِيُّ: حَدَّثَنَا الْقَاسِمُ بْنُ مَالِكٍ الْمُزَنِيُّ عَنِ الْجُرَيْرِيِّ نَحْوَهُ.

[و]هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ.

تخريج: [إسناده حسن] وأخرجه أبو داود، اللباس، باب ما يقول إذا لبس ثوبًا جديدًا، ح:٤٠٢٠ من حديث ابن المبارك به وهو سمع من الجريري قبل اختلاطه * وفي الباب عن عمر.

Comments:

The supplication is intended to reaffirm the fact that whatever anyone of us achieves or gets is from Allāh. We must, therefore, pay our thanks and praises to Him.

Chapter 30. What Has Been Related About Wearing A *Jubbah* And *Khuff*

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي لُبْسِ الْجُبَّةِ وَالْخُفَّيْنِ (التحفة ٣٠)

1768. 'Urwah bin Al-Mughirah bin Shu'bah narrated from his father: "The Prophet ﷺ wore a Roman *Jubbah*[1] with tight sleeves." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٧٦٨ - حَدَّثَنَا يُوسُفُ بْنُ عِيسَى: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا يُونُسُ بْنُ أَبِي إِسْحَاقَ عَنِ الشَّعْبِيِّ، عَنْ عُرْوَةَ بْنِ الْمُغِيرَةِ بْنِ شُعْبَةَ، عَنْ أَبِيهِ: أَنَّ النَّبِيَّ ﷺ لَبِسَ جُبَّةً رُومِيَّةً ضَيِّقَةَ الْكُمَّيْنِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأصله في صحيح البخاري، ح:٥٧٩٨، ٥٧٩٩ من حديث المغيرة به.

Comments:

The *Ḥadīth* makes it clear that it is allowed to wear the dresses made by the unbelievers provided they are not impure.

1769. Ash-Sha'bī narrated from Al-Mughīrah bin Shu'bah: "Diḥyah Al-Kalbī gave a pair of *Khuff* to the Messenger of Allāh ﷺ, so he wore

١٧٦٩ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ أَبِي زَائِدَةَ عَنِ الْحَسَنِ بْنِ عَيَّاشٍ، عَنْ أَبِي إِسْحَاقَ - هُوَ الشَّيْبَانِيُّ -، عَنِ الشَّعْبِيِّ، عَنِ

[1] See no. 1734.

الْمُغِيرَةِ بْنِ شُعْبَةَ: أَهْدَى دِحْيَةُ الْكَلْبِيُّ لِرَسُولِ اللهِ ﷺ خُفَّيْنِ فَلَبِسَهُمَا.

[قَالَ أَبُو عِيسَى:] وقَالَ إِسْرَائِيلُ عَنْ جَابِرٍ، عَنْ عَامِرٍ: وجُبَّةً فَلَبِسَهُمَا حَتَّى تَخَرَّقَا لَا يَدْرِي النَّبِيُّ ﷺ أَذَكِيٌّ هُمَا أَمْ لَا.

[و]هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَأَبُو إِسْحَاقَ الَّذِي رَوَىٰ هٰذا عَنِ الشَّعْبِيِّ هُوَ أَبُو إِسْحَاق الشَّيْبَانِيُّ وَاسْمُهُ سُلَيْمَانُ. وَالْحَسَنُ ابْنُ عَيَّاشٍ هُوَ أَخُو أَبِي بَكْرِ بْنِ عَيَّاشٍ.

them." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] Isrā'īl said: "From Jābir, from 'Āmir: 'And a *Jubbah*, so he wore them until they tore. And the Prophet ﷺ did not know whether they were from a slaughtered animal or not.'"

This *Ḥadīth* is *Ḥasan Gharīb*. Abū Isḥāq, the one who reported this from Ash-Sha'bī, is Abū Isḥāq Ash-Shaibānī, and his name is Sulaimān. Al-Ḥasan bin 'Ayyāsh is the brother of Abū Bakr bin 'Ayyāsh.

تخريج: [**صحيح**] انظر الحديث السابق * حديث جابر عن عامر الشعبي: ضعيف، جابر ضعيف رافضي مدلس.

Comments:

Khuff are made from tanned leather. Hence it was that the Messenger of Allāh ﷺ did not consider it necessary to enquire whether the leather was from a slaughtered animal or a dead animal, since tanning has the effect of purifying the leather.

Chapter 31. What Has Been Related About Bracing The Teeth With Gold

(المعجم ٣١) - بَابُ مَا جَاءَ فِي شَدِّ الْأَسْنَانِ بِالذَّهَبِ (التحفة ٣١)

١٧٧٠ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا عَلِيُّ بْنُ هَاشِمِ بْنِ البَرِيدِ وَأَبُو سَعْدٍ الصَّنْعَانِيُّ عَنْ أَبِي الأَشْهَبِ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ طَرَفَةَ، عَنْ عَرْفَجَةَ بْنِ أَسْعَدَ قَالَ: أُصِيبَ أَنْفِي يَوْمَ الكُلَابِ فِي الْجَاهِلِيَّةِ فَاتَّخَذْتُ أَنْفًا مِنْ وَرِقٍ فَأَنْتَنَ عَلَيَّ، فَأَمَرَنِي رَسُولُ اللهِ ﷺ أَنْ أَتَّخِذَ أَنْفًا مِنْ ذَهَبٍ.

حَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا الرَّبِيعُ بْنُ بَدْرٍ ومُحَمَّدُ بْنُ يَزِيدَ الوَاسِطِيُّ عَنْ أَبِي الأَشْهَبِ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

1770. 'Urfajah bin As'ad said: "My nose was severed on the Day of Al-Kulāb during *Jāhiliyyah*. So I got a nose of silver which caused an infection for me, so the Messenger of Allāh ﷺ ordered me to get a nose made of gold." (***Ḥasan***)

(Another chain) with similar meaning.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Gharīb*], we only know of it as a narration of 'Abdur-Raḥmān bin Ṭarafah. Salm bin Zarīr reported similar to the narration of Abū Al-Ashhab from 'Abdur-Raḥmān bin Ṭaraqah – "from

'Abdur-Raḥmān bin Ṭaraqah." It has been related about more than one of the people of knowledge that they would brace their teeth with gold, and in this *Ḥadīth* there was a proof for them.

['Abdur-Raḥmān] bin Mahdī said: "Salm bin Zarīn" but that is an error, "Zarīr" is more correct, [and Abū Sa'd Aṣ-Ṣan'ānī's (a narrator in this chain) name is Muḥammad bin Muyassir].

[غَرِيبٌ] إِنَّمَا نَعْرِفُهُ مِنْ حَدِيثِ عَبْدِ الرَّحْمٰنِ ابْنِ طَرَفَةَ. وقَدْ رَوَى سَلْمُ بْنُ زَرِيرٍ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ طَرَفَةَ نَحْوَ حَدِيثِ أَبِي الأَشْهَبِ: عَنْ عَبْدِالرَّحْمٰنِ بْنِ طَرَفَةَ. وقَدْ رُوِيَ عَنْ غَيْرِ واحِدٍ مِنْ أَهْلِ الْعِلْمِ أَنَّهُمْ شَدُّوا أَسْنَانَهُمْ بالذَّهَبِ، وفي هٰذَا الْحَدِيثِ حُجَّةٌ لَهُمْ. [وقَالَ عَبْدُالرَّحْمٰنِ] بْنُ مَهْدِيٍّ: سَلْمُ بْنُ زَرِينٍ، وهُوَ وهْمٌ وَزَرِيرٌ أَصَحُّ [وأَبُو سَعْدٍ الصَّنْعَانِيُّ اسْمُهُ مُحَمَّدُ بْنُ مُيَسَّرٍ].

تخريج: **[إسناده حسن]** وأخرجه أبو داود، الخاتم، باب ما جاء في ربط الأسنان بالذهب، ح:٤٢٣٢ من حديث أبي الأشهب، والنسائي، ح:٥١٦٤، ٥١٦٥ من حديث عبدالرحمن بن طرفة به وصححه ابن حبان، ح:١٤٦٦.

Comments:

The *Ḥadīth* confirms that in case of necessity or inevitability it is allowed to use gold for ones teeth or nose.

Chapter 32. What Has Been Related About The Prohibition Of Predator Skins

(المعجم ٣٢) - بَابُ مَا جَاءَ فِي النَّهْيِ عَنْ جُلُودِ السِّبَاعِ (التحفة ٣٢)

1770. (A). Abū Al-Malīḥ narrated from his father: "The Prophet ﷺ prohibited using predator skins as a spread." (***Ḥasan***)

(Another chain) from Abū Al-Malīḥ from his father: "The Prophet ﷺ prohibited predator skins."

[(Another chain): from Abū Al-Malīḥ, that he ﷺ disliked predator skins. Abū 'Eīsā said:] We do not know anyone who said: "From Abū Al-Malīḥ, from his father" except for Sa'eed bin Abī 'Arūbah.

١٧٧٠م - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا ابْنُ الْمُبَارَكِ ومُحَمَّدُ بْنُ بِشْرٍ وَعَبْدُ اللهِ بْنُ إِسْمَاعِيلَ بْنِ أَبِي خالِدٍ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ أَبِي الْمَلِيحِ، عَنْ أَبِيهِ أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ جُلُودِ السِّبَاعِ أَنْ تُفْتَرَشَ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا سَعِيدٌ عَنْ قَتَادَةَ، عَنْ أَبِي الْمَلِيحِ، عَنْ أَبِيهِ أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ جُلُودِ السِّبَاعِ. [حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ ابْنُ هِشَامٍ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ أَبِي

الْمَلِيحِ أَنَّهُ كَرِهَ جُلُودَ السِّبَاعِ، قَالَ أَبُو عِيسَى:] ولَا نَعْلَمُ أَحَدًا قَالَ: عَنْ أَبِي الْمَلِيحِ، عَنْ أَبِيهِ غَيْرَ سَعِيدِ بْنِ أَبِي عَرُوبَةَ.

تخريج: [حسن] وأخرجه أبو داود، اللباس، باب: في جلود النمور والسباع، ح:٤١٣٢ والنسائي، ح:٤٢٥٨ من حديث سعيد بن أبي عروبة به وصححه ابن الجارود، ح:٨٧٥ والحاكم: ١/١٤٨ والذهبي وله شاهد حسن عند البيهقي: ١/٢١.

1771. Abū Al-Malīḥ narrated: "The Prophet ﷺ prohibited predator skins." And this (chain) is more correct. (***Ḥasan***)

١٧٧١ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ يَزِيدَ الرِّشْكِ، عَنْ أَبِي الْمَلِيحِ عَنِ النَّبِيِّ ﷺ: أَنَّهُ نَهَى عَنْ جُلُودِ السِّبَاعِ وهٰذَا أَصَحُّ.

تخريج: [حسن] انظر الحديث السابق.

Comments:

The ruling about predator skins has been discussed in Chapter 7 under the heading: "The Skins Of Dead Animals When They Are Tanned".

Chapter 33. What Has Been Related About The Sandals Of The Prophet ﷺ

(المعجم ٣٣) - بَابُ مَا جَاءَ فِي نَعْلِ النَّبِيِّ ﷺ (التحفة ٣٣)

1772. Qatādah said: "I asked Anas bin Mālik: 'How were the sandals of the Messenger of Allāh ﷺ?' He said: 'They had two straps.''' (***Ṣaḥīḥ***)

١٧٧٢ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو دَاوُدَ: حَدَّثَنَا هَمَّامٌ عَنْ قَتَادَةَ قَالَ: قُلْتُ لِأَنَسِ بْنِ مَالِكٍ: كَيْفَ كانَ نَعْلُ رَسُولِ اللهِ ﷺ؟ قَالَ: لَهُمَا قِبَالَانِ.

تخريج: وأخرجه البخاري، اللباس، باب قبالان في نعل، ومن رأى قبالاً واحدًا واسعًا، ح:٥٨٥٧ من حديث همام به.

1773. Qatādah narrated from Anas: "The sandals of the Prophet ﷺ had two straps." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

He said: There are narrations on this topic from Ibn 'Abbās, and Abū Hurairah.

١٧٧٣ - **حَدَّثَنَا** إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا حَبَّانُ بْنُ هِلَالٍ: حَدَّثَنَا هَمَّامٌ: حَدَّثَنَا قَتَادَةُ عَنْ أَنَسٍ أَنَّ رَسُولَ اللهِ ﷺ كَانَ نَعْلَاهُ لَهُمَا قِبَالَانِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

قَالَ: وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وأَبِي هُرَيْرَةَ.

تخريج: [**صحيح**] انظر الحديث سابق * وفي الباب عن ابن عباس [الترمذي في الشمائل، ح:٧٥] وأبي هريرة [الترمذي في الشمائل، ح:٧٨].

Chapter 34. What Has Been Related About It Being Disliked To Walk In One Sandal

(المعجم ٣٤) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْمَشْيِ فِي النَّعْلِ الْوَاحِدَةِ (التحفة ٣٤)

1774. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Do not walk in one sandal; either wear both sandals, or go barefoot." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[He said:] There is something on this topic from Jābir.

١٧٧٤ - حَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكٍ؛ ح: وحَدَّثَنَا الأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «لَا يَمْشِي أَحَدُكُمْ فِي نَعْلٍ وَاحِدَةٍ لِيُنْعِلْهُمَا جَمِيعًا أَوْ لِيُحْفِهِمَا جَمِيعًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حديثٌ حسنٌ صحيحٌ.

[قَالَ:] وفِي الْبَابِ عَنْ جَابِرٍ.

تخريج: متفق عليه، أخرجه البخاري، اللباس، باب: لا يمشي في نعل واحدة، ح:٥٨٥٥ ومسلم، ح:٢٠٩٧ من حديث مالك به وهو في الموطإ:٢/٩١٦ (يحيى) * وفي الباب عن جابر [مسلم، ح:٢٠٩٩].

Comments:

Walking with wearing one shoe looks odd. It, moreover, disturbs the balance of the feet in walking. Therefore, the proper thing to do is either to wear the shoes on both feet or in neither.

Chapter 35. What Has Been Related About It Being Disliked For A Man To Don Sandals While Standing

(المعجم ٣٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَنْ يَنْتَعِلَ الرَّجُلُ وَهُوَ قَائِمٌ (التحفة ٣٥)

1775. Abū Hurairah said: "The Messenger of Allāh ﷺ prohibited that a man should put on sandals while he is standing." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is

١٧٧٥ - حَدَّثَنَا أَزْهَرُ بْنُ مَرْوَانَ الْبَصْرِيُّ: أَخْبَرَنَا الْحَارِثُ بْنُ نَبْهَانَ عَنْ مَعْمَرٍ، عَنْ عَمَّارِ بْنِ أَبِي عَمَّارٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ:

Hasan Gharīb. 'Ubaidullāh bin 'Amr Ar-Raqqī reported this *Hadīth* from Ma'mar, from Qatādah, from Anas. Both of the *Ahādīth* are not correct according to the people of *Hadīth*. Al-Hārith bin Nabhān is not a *Hāfiz* according to them, and we do not know any basis for the narration of Qatādah from Anas.

نَهَى رَسُولُ اللهِ ﷺ أَنْ يَنْتَعِلَ الرَّجُلُ وَهُوَ قَائِمٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَرَوَى عُبَيْدُ اللهِ بْنُ عَمْرٍو الرَّقِّيُّ هٰذَا الْحَدِيثَ عَنْ مَعْمَرٍ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ وَكِلَا الْحَدِيثَيْنِ لَا يَصِحُّ عِنْدَ أَهْلِ الْحَدِيثِ. والْحَارِثُ بْنُ نَبْهَانَ لَيْسَ عِنْدَهُمْ بِالْحَافِظِ، ولَا نَعْرِفُ لِحَدِيثِ قَتَادَةَ عَنْ أَنَسٍ أَصْلًا.

تخريج: [إسناده ضعيف جدًّا] * الحارث بن نبهان: متروك (تقريب) وللحديث شواهد ضعيفة عند ابن ماجه، ح:٣٦١٨، ٣٦١٩ وأبي داود وغيرهما ولم يصب من صححه.

Comments:

If for some reason one of us finds it difficult to tell the left shoe from right, then he should put them on while sitting down. The main consideration in this is the wearers comfort. The *Hadīth* is also reported from other Companions ﷺ. Sheikh Mubārakpurī has described the *Hadīth* as sound (*Tuhfat Al-Ahwadhī*, v.3, p. 67)., as well as others.

1776. Anas narrated: "The Messenger of Allāh ﷺ prohibited that a man should put on sandals while he is standing." (***Da'īf***)

[Abū 'Eīsā said:] This *Hadīth* is *Gharīb*. Muhammad bin Ismā'īl said: "This *Hadīth* is not correct, nor the *Hadīth* of Ma'mar from 'Āmmar bin Abī 'Āmmār, from Abū Hurairah (no. 1775)."

١٧٧٦ - **حَدَّثَنَا** أَبُو جَعْفَرٍ السِّمْنَانِيُّ: حَدَّثَنَا سُلَيْمَانُ بْنُ عُبَيْدِ اللهِ الرَّقِّيُّ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ عَمْرٍو الرَّقِّيُّ عَنْ مَعْمَرٍ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ: أَنَّ رَسُولَ اللهِ ﷺ نَهَى أَنْ يَنْتَعِلَ الرَّجُلُ وَهُوَ قَائِمٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ. وقَالَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ: وَلَا يَصِحُّ هٰذَا الْحَدِيثُ وَلَا حَدِيثُ مَعْمَرٍ عَنْ عَمَّارِ بْنِ أَبِي عَمَّارٍ، عَنْ أَبِي هُرَيْرَةَ.

تخريج: [إسناده ضعيف] * قتادة مدلس عنعن، وانظر الحديث السابق.

Chapter 36. What Has Been Related About The Permission (For Walking In) One Sandal

(المعجم ٣٦) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ [فِي الْمَشْيِ] فِي النَّعْلِ الْوَاحِدَةِ (التحفة ٣٦)

1777. 'Āishah said: "Sometimes the Prophet ﷺ would walk in one sandal." (*Ḍa'īf*)

١٧٧٧ - حَدَّثَنَا الْقَاسِمُ بْنُ دِينَارٍ: حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ السَّلُولِيُّ كُوفِيٌّ: حَدَّثَنَا هُرَيْمٌ - وهُوَ ابْنُ سُفْيَانَ البَجَلِيُّ الْكُوفِيُّ - عَنْ لَيْثٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: رُبَّمَا مَشَى النَّبِيُّ ﷺ فِي نَعْلٍ وَاحِدَةٍ.

تخريج: [إسناده ضعيف] * ليث بن أبي سليم ضعيف مدلس.

Comments:

Walking in one sandal is against norms of decency, since obviously, it is not a happy sight to see a man walking in this manner. There is, however, no harm if one does it of necessity or because of any other pressing circumstance. It is also likely that the prohibition relates to general considerations of good behaviour and etiquette.

1778. 'Abdur-Raḥmān bin Al-Qāsim narrated from his father, about 'Āishah that: "She would walk in one sandal." (*Ṣaḥīḥ*)

This is more correct. [Abū 'Eīsā said:] This is how it was reported by Sufyān Ath-Thawrī and others, from 'Abdur-Raḥmān bin Al-Qāsim, in *Mawqūf* form, and this is more correct.

١٧٧٨ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ الْقَاسِمِ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: أَنَّهَا مَشَتْ بِنَعْلٍ وَاحِدَةٍ.

وهٰذَا أَصَحُّ. [قَالَ أَبُو عِيسَى:] هٰكَذَا رَوَى سُفْيَانُ الثَّوْرِيُّ وغَيْرُ واحِدٍ عَنْ عَبْدِ الرَّحْمٰنِ بْنِ الْقَاسِمِ مَوْقُوفًا. وهٰذَا أَصَحُّ.

تخريج: [صحيح، موقوف].

Chapter 37. What Has Been Related About Which Foot Does One Start With When Wearing Sandals

(المعجم ٣٧) - بَابُ مَا جَاءَ بِأَيِّ رِجْلٍ يَبْدَأُ إِذَا انْتَعَلَ (التحفة ٣٧)

1779. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "When one of you dons sandals, then let him begin with the right.

١٧٧٩ - حَدَّثَنَا الأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ؛ ح: وحَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنِ الأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ

And when he removes them then let him begin with the left, so that the right will be the first to put on and the last of them removed." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِذَا انْتَعَلَ أَحَدُكُمْ فَلْيَبْدَأْ بِالْيَمِينِ، وَإِذَا نَزَعَ فَلْيَبْدَأْ بِالشِّمَالِ، فَلْتَكُنِ الْيُمْنىٰ أَوَّلَهُمَا تُنْعَلُ وآخِرَهُمَا تُنْزَعُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، اللباس، باب: ينزع نعله اليسرى، ح:٥٨٥٦ ومسلم، ح:٢٠٩٧ من حديث مالك به وهو في الموطإ:٢/٩١٦ (يحيى) وانظر الحديث المتقدم: ١٧٧٤.

Chapter 38. What Has Been Related About Patching A Garment

(المعجم ٣٨) - بَابُ مَا جَاءَ فِي تَرْقِيعِ الثَّوْبِ (التحفة ٣٨)

1780. 'Āishah said: "The Messenger of Allāh ﷺ said to me: 'If you want to stick with me,[1] then suffice yourself in the world with the provisions of the rider. And beware of gatherings of the rich, and do not consider a garment to be worn out until it has been patched.'" (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except as a narration of Ṣāliḥ bin Ḥassān. [He said:] I heard Muḥammad bin Ismā'īl saying: "Ṣāliḥ bin Ḥassān is *Munkar* in *Ḥadīth*."[2] And Ṣāliḥ bin Ḥassān – the one who Ibn Abī Dhi'b reports from – is trustowthy.

[Abū 'Eīsā said:] The meaning of this saying: "And beware of gatherings of the rich" is similar to what was related from Abū Hurairah from the Prophet ﷺ, that

١٧٨٠ - **حَدَّثَنَا** يَحْيَى بْنُ مُوسَى: حَدَّثَنَا سَعِيدُ بْنُ مُحَمَّدٍ الْوَرَّاقُ وَأَبُو يَحْيَى الْحِمَّانِيُّ قَالَا: حَدَّثَنَا صَالِحُ بْنُ حَسَّانَ عَنْ عُرْوَةَ، عَنْ عَائِشَةَ قَالَتْ: قَالَ لِي رَسُولُ اللهِ ﷺ: «إِذَا أَرَدْتِ اللُّحُوقَ بِي فَلْيَكْفِكِ مِنَ الدُّنْيَا كَزَادِ الرَّاكِبِ، وَإِيَّاكِ وَمُجَالَسَةَ الأَغْنِيَاءِ، وَلَا تَسْتَخْلِقِي ثَوْبًا حَتَّى تُرَقِّعِيهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ صَالِحِ بْنِ حَسَّانَ.

[قَالَ:] وسَمِعْتُ مُحَمَّدًا يَقُولُ: صَالِحُ بْنُ حَسَّانَ مُنْكَرُ الْحَدِيثِ. وصَالِحُ بْنُ أَبِي حَسَّانَ الَّذِي رَوَى عَنْهُ ابْنُ أَبِي ذِئْبٍ ثِقَةٌ.

[قَالَ أَبُو عِيسَى:] وَمَعْنَى قَوْلِهِ: «وإِيَّاكِ وَمُجَالَسَةَ الْأَغْنِيَاءِ» هُوَ نَحْوُ ما رُوِيَ عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ أَنَّهُ قَالَ: «مَنْ رَأَى مَنْ

[1] Meaning: "My level in Paradise." See *Tuḥfat Al-Aḥwadhī*.

[2] Meaning they abandoned him and it is not allowed to narrate from him.

he said: "Whoever sees one that has been more favored than him in appearance and provisions, then let him look at the one who is less than him, rather than one who is favored more than him. For indeed it is more appropriate so that he not scorn Allāh's favors [upon him]."

And it has been related from 'Awn bin 'Abdullāh who said: "I accompanied the rich, and did not see anyone with more troubles than me. I saw a beast that was better than my beast, and a garment that was better than by garment. And I accompanied the poor, and felt at ease."

فُضِّلَ عَلَيْهِ فِي الْخَلْقِ والرِّزْقِ. فَلْيَنْظُرْ إِلَى مَنْ هُوَ أَسْفَلَ مِنْهُ مِمَّنْ هُوَ فُضِّلَ عَلَيْهِ فَإِنَّهُ أَجْدَرُ أَنْ لَا يَزْدَرِيَ نِعْمَةَ اللهِ [عَلَيْهِ]».

وَيُرْوَى عَنْ عَوْنِ بْنِ عَبْدِ اللهِ قَالَ: صَحِبْتُ الْأَغْنِيَاءَ فَلَمْ أَرَ أَحَدًا، أَكْثَرَ هَمًّا مِنِّي، أَرَى دَابَّةً خَيْرًا مِنْ دَابَّتِي، وَثَوْبًا خَيْرًا مِنْ ثَوْبِي، وَصَحِبْتُ الْفُقَرَاءَ فَاسْتَرَحْتُ.

تخريج: [إسناده ضعيف جدًّا] وأخرجه أبو نعيم في أخبار أصبهان: ١/ ٨٩ من حديث صالح ابن حسان به وهو متروك (تقريب)، وصححه الحاكم: ٤/ ٣١٢ فتعقبه الذهبي.

Chapter 39. The Entrance Of The Prophet ﷺ In Makkah

(المعجم ٣٩) - بَابُ [دُخُولِ النَّبِيِّ ﷺ مَكَّةَ] (التحفة ٣٩)

1781. Umm Hāni' said: "The Messenger of Allāh ﷺ arrived in Makkah, and he had four braids." ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*.

(Another chain) from Umm Hāni' who said: "The Messenger of Allāh ﷺ arrived in Makkah, and he had four braids."

And Abū Najīḥ's (a narrator in the chain of this *Ḥadīth*) name is Yasār.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Gharīb*]. 'Abdullāh bin Abī Najīḥ is from Makkah, and Abū Najīḥ's name is Yasār. Muḥammad said: "I do not know of Mujāhid (a

١٧٨١ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ مُجَاهِدٍ، عَنْ أُمِّ هَانِئٍ قَالَتْ: قَدِمَ رَسُولُ اللهِ ﷺ مَكَّةَ وَلَهُ أَرْبَعُ غَدَائِرَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ.

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ نَافِعٍ الْمَكِّيُّ عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ مُجَاهِدٍ، عَنْ أُمِّ هَانِئٍ قَالَتْ: قَدِمَ رَسُولُ اللهِ ﷺ مَكَّةَ وَلَهُ أَرْبَعُ ضَفَائِرَ. أَبُو نَجِيحٍ اسْمُهُ يَسَارٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [غَرِيبٌ]. وَعَبْدُ اللهِ بْنُ أَبِي نَجِيحٍ مَكِّيٌّ.

narrator) hearing from Umm Hāni'."

وأَبُو نَجِيحٍ اسْمُهُ يَسَارٌ قَالَ مُحَمَّدٌ: لَا أَعْرِفُ لِمُجَاهِدٍ سَمَاعًا عَنْ أُمِّ هانِىءٍ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الترجل، باب: في الرجل يضفر شعره، ح:٤١٩١ وابن ماجه، ح:٣٦٣١ من حديث سفيان بن عيينة به * ابن أبي نجيح عنعن.

Comments:

In view of the particular conditions of the journey, it is allowed for a traveler to braid his hair.

Chapter 40. How Were The *Kimām* (Caps) Of The Companions?

(المعجم ٤٠) - بَابٌ: [كَيْفَ كَانَتْ كِمَامُ الصَّحَابَةِ] (التحفة ٤٠)

1782. Abū Sa'eed – who is 'Abdullāh bin Busr – said: "I heard Abū Kabshah Al-Anmārī saying: 'The *Kimām* (caps) of the Companions of the Messenger of Allāh ﷺ were *Buṭhan* (stretched over the head).'" (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Munkar*, 'Abdullāh bin Busr is from Al-Baṣrah, and he is weak according to the people of *Ḥadīth*. Yaḥya bin Sa'eed and others graded him weak. *Buṭhun* means expansive.

١٧٨٢ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا مُحَمَّدُ بْنُ حُمْرَانَ عَنْ أَبِي سَعِيدٍ - وَهُوَ عَبْدُ اللهِ بْنُ بُسْرٍ - قَالَ: سَمِعْتُ أَبَا كَبْشَةَ الْأَنْمَارِيَّ يَقُولُ: كانَتْ كِمَامُ أَصْحَابِ رَسُولِ اللهِ ﷺ بُطْحًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ مُنْكَرٌ. وَعَبْدُ اللهِ بْنُ بُسْرٍ بَصْرِيٌّ هُوَ ضَعِيفٌ عِنْدَ أَهْلِ الْحَدِيثِ ضَعَّفَهُ يَحْيَى بْنُ سَعِيدٍ وغَيْرُهُ. بُطْحٌ يَعْنِي وَاسِعَةٌ.

تخريج: [إسناده ضعيف] وأخرجه أبو الشيخ في أخلاق النبي ﷺ، ص:١٠٢ من حديث محمد بن حمران به بألفاظ مختلفة.

Comments:

If *Kimām* is the plural of *Kum*, then it means sleeves, and the *Ḥadīth* shall mean that their sleeves were wide and spacious. If it be the plural of *Kam*, it would mean the cap, and the idea would be that their caps were clinging to their heads. *Buṭh* means stretched. Thus, the meaning would be that their caps clung to their heads, and were not elevated.

Chapter 41. Regarding The Length Of The *Izār*

(المعجم ٤١) - بَابٌ: [فِي مَبْلَغِ الْإِزَارِ] (التحفة ٤١)

1783. Hudhaifah narrated: "The Messenger of Allāh ﷺ took hold of the calf of my shin – or his shin – and

١٧٨٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا أَبُو الْأَحْوَصِ عَنْ أَبِي إِسْحَاقَ، عَنْ مُسْلِمِ بْنِ

he said: 'This is the place of the *Izār*, if you must lower it, then the *Izār* has no right to be on the ankles.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Ath-Thawrī and Shu'bah reported it from Abū Isḥāq.

نُذيْرٍ، عَنْ حُذَيْفَةَ قَالَ: أَخَذَ رَسُولُ اللهِ ﷺ بِعَضَلَةِ سَاقِي أَوْ سَاقِهِ وَقَالَ: هٰذَا مَوْضِعُ الْإِزَارِ، فَإِنْ أَبَيْتَ فَأَسْفَل فَإِنْ أَبَيْتَ فَلَا حَقَّ لِلإِزَارِ فِي الْكَعْبَيْنِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ رَوَاهُ الثَّوْرِيُّ وشُعْبَةُ عَنْ أَبِي إِسْحَاقَ.

تخريج: [**إسناده صحيح**] وأخرجه ابن ماجه، اللباس، باب موضع الإزار أين هو؟، ح:٣٥٧٢ من حديث أبي الأحوص، والنسائي، ح:٥٣٣١ من حديث أبي إسحاق به.

Comments:

Men must in any case keep their waist-wrap or trousers etc. above their ankles. These should be below the upper half of the shin but above the ankles.

Chapter 42. Wearing Turbans Over Caps

(المعجم ٤٢) - بَابُ [الْعَمَائِمِ عَلَى الْقَلَانِسِ] (التحفة ٤٢)

1784. Abū Ja'far bin Muḥammad bin Rukānah narrated from his father that Rukānah wrestled the Prophet ﷺ and the Prophet ﷺ won the match. Rukānah said: "I heard the Messenger of Allāh ﷺ saying: 'Indeed what distinguishes between us and between the idolaters is the turban over the cap.'" (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. Its chain is not established, and we do not know of Abū Al-Ḥasan Al-'Asqalānī, nor Ibn Rukānah.

١٧٨٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مُحَمَّدُ بْنُ رَبِيعَةَ عَنْ أَبِي الْحَسَنِ الْعَسْقَلَانِيِّ، عَنْ أَبِي جَعْفَرِ بْنِ مُحَمَّدِ بْنِ رُكَانَةَ، عَنْ أَبِيهِ: أَنَّ رُكَانَةَ صَارَعَ النَّبِيَّ ﷺ فَصَرَعَهُ النَّبِيُّ ﷺ، قَالَ رُكَانَةُ: سَمِعْتُ رَسُولَ اللهِ ﷺ، يَقُولُ: إِنَّ فَرْقَ مَا بَيْنَنَا وَبَيْنَ الْمُشْرِكِينَ، العَمَائِمُ عَلَى القَلَانِسِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ وَإِسْنَادُهُ لَيْسَ بالقَائِمِ، ولَا نَعْرِفُ أَبَا الْحَسَنِ الْعَسْقَلانِيَّ ولَا ابْنَ رُكَانَةَ.

تخريج: [**إسناده ضعيف**] وأخرجه أبو داود، اللباس، باب: في العمائم، ح:٤٠٧٨ عن قتيبة به * أبوالحسن وأبوجعفر مجهولان.

Comments:

As stated by Imām Ibn Qayyim the Prophet's ﷺ *'Imāmah* had generally the cap tucked into it, although at times he wore the *'Imāmah* without the cap or the cap without the *'Imāmah* (*Zād Al-Ma'ād*, v.1, p.130).

Chapter 43. What Has Been Related About The Iron Ring

(المعجم ٤٣) - بَابُ مَا جَاءَ فِي خَاتَمِ الْحَدِيدِ (التحفة ٤٣)

1785. 'Abdullāh bin Buraidah narrated from his father who said: "A man wearing an iron ring came to the Prophet ﷺ. So he said to him: 'What is this I see on you, jewelry of the people of the Fire?' Then he came wearing a ring of brass. So he said: 'What is this smell of idols I sense on you?' Then he came wearing a ring of gold. So he said to him: 'What is this jewelry of the people of Paradise I see on you?' So he said: 'What should I use then?' He said: 'From silver, but not its entire weight.'"[1] ***(Hasan)***

[Abū 'Eīsā said:] This *Hadīth* is *Gharīb* [and there are narrations on this topic from 'Abdullāh bin 'Amr], and 'Abdullāh bin Muslim's *Kunyah* is Abū Ṭaibah, and he is from Al-Marwaz.

١٧٨٥ - حَدَّثَنَا مُحَمَّدُ بْنُ حُمَيْدٍ: حَدَّثَنَا زَيْدُ بْنُ حُبَابٍ وأَبُو تُمَيْلَةَ عَنْ عَبْدِ اللهِ بْنِ مُسْلِمٍ، عَنْ عَبْدِ اللهِ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ قَالَ: جَاءَ رَجُلٌ إِلَى النَّبِيِّ ﷺ وعَلَيْهِ خَاتَمٌ مِنْ حَدِيدٍ، فَقَالَ: مَالِي أَرَى عَلَيْكَ حِلْيَةَ أَهْلِ النَّارِ؟ ثُمَّ جَاءَهُ وَعَلَيْهِ خَاتَمٌ مِنْ صُفْرٍ، فَقَالَ: «مَالِي أَجِدُ مِنْكَ رِيحَ الْأَصْنَامِ»؟ ثُمَّ أَتَاهُ وَعَلَيْهِ خَاتَمٌ مِنْ ذَهَبٍ، فَقَالَ: «مَالِي أَرَى عَلَيْكَ حِلْيَةَ أَهْلِ الْجَنَّةِ»؟ قَالَ: مِنْ أَيِّ شَيْءٍ أَتَّخِذُهُ؟ قَالَ: مِنْ وَرِقٍ وَلَا تُتِمَّهُ مِثْقَالًا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ [وفِي الْبَاب عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو] وعَبْدُ اللهِ ابْنُ مسْلِمٍ يُكْنَى أَبَا طَيبَةَ وهُوَ مَرْوَزِيٌّ.

تخريج: [حسن] وأخرجه أبو داود، الخاتم، باب ما جاء في خاتم الحديد، ح:٤٢٢٣ والنسائي، ح:٥١٩٨ من حديث زيد بن حباب به وصححه ابن حبان، ح:١٤٦٧ وناقشه الحافظ ابن حجر في فتح الباري، ولبعض الحديث شواهد * عبدالله بن مسلم: حسن الحديث على الراجح.

Comments:

Iron was the metal, of which the idolaters of Makkah made their rings, and iron is what their chains and girdles shall be made of in Hell. Their idols were from copper and brass. That is why it is not proper to wear rings made from these metals.

Chapter 44. Two Fingers Upon Which It Is Disliked To Wear Rings

(المعجم ٤٤) - بَابُ [كَرَاهِيَةِ التَّخَتُّمِ فِي أُصْبُعَيْنِ] (التحفة ٤٤)

1786. Ibn Abī Mūsā narrated: "I

١٧٨٦ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا

[1] Meaning: 'Not pure silver.' See *Tuhfat Al-Ahwadhī*.

heard 'Alī saying: 'The Messenger of Allāh ﷺ prohibited *Al-Qassī*, the red *Mītharah*, and wearing rings on this and this.' And he pointed to the index and middle fingers." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Ibn Abī Mūsā is Abū Burdah bin Abī Mūsā and his name is 'Āmir bin ['Abdullāh bin Qais].

سُفْيَانُ عَنْ عَاصِمِ بْنِ كُلَيْبٍ، عَنِ ابْنِ أَبِي مُوسَى قَالَ: سَمِعْتُ عَلِيًّا يَقُولُ: نَهَانِي رَسُولُ اللهِ ﷺ عَنِ الْقَسِّيِّ والمِيثَرَةِ الْحَمْرَاءِ، وَأَنْ أَلْبَسَ خَاتَمِي فِي هٰذِهِ وَفِي هٰذِهِ، وَأَشَارَ إِلَى السَّبَّابَةِ والوُسْطَى.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وابْنُ أَبِي مُوسَى هُوَ أَبُو بُرْدَةَ بْنُ أَبِي مُوسَى واسْمُهُ عَامِرُ بْنُ [عَبْدِاللهِ بْنِ قَيْسٍ].

تخريج: وأخرجه مسلم، اللباس الزينة، باب النهي عن التختم في الوسطى والتي تليها، ح:٢٠٧٨ بعد، ح:٢٠٩٥ عن محمد بن أبي عمر به وعلقه البخاري، اللباس، باب:٢٨ من حديث عاصم بن كليب به.

Comments:

As pointed out by Imām Nawawī, the Prophet's *Sunnah* is to wear the ring on the little finger (*Tuḥfat Al-Aḥwadhī*, v.3, p.71)

Chapter 45. What Has Been Related About The Garment The Messenger Of Allāh ﷺ Liked Most To Wear

(المعجم ٤٥) - بَابُ مَا جَاءَ فِي أَحَبِّ الثِّيَابِ إِلَى رَسُولِ اللهِ ﷺ (التحفة ٤٥)

1787. Anas said: "The garment the Messenger of Allāh ﷺ liked most to wear was the *Ḥibrah*." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb*.

١٧٨٧ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ أَنَسٍ قَالَ: كَانَ أَحَبُّ الثِّيَابِ إِلَى رَسُولِ اللهِ ﷺ يَلْبَسُهَا الْحِبَرَةَ. [قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ.

تخريج: متفق عليه، وأخرجه البخاري، اللباس، باب البرود والحبر والشملة، ح:٥٨١٣ ومسلم، ح:٢٠٧٩ من حديث معاذ بن هشام به.

Comments:

Hibrah means striped cotton cloth having threads of different colors. Its main characteristic is that dirt in it does not quickly show itself, nor does it look gaudy.

In the Name of Allāh, the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

23. The Chapters On Food From The Messenger Of Allāh ﷺ

(المعجم ٢٣) - أَبْوَابُ الأَطْعِمَةِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ٢٠)

Chapter 1. What Has Been Related About What The Prophet ﷺ Ate Upon

(المعجم ١) - بَابُ مَا جَاءَ عَلَى مَا كَانَ يَأْكُلُ النَّبِيُّ ﷺ (التحفة ١)

1788. Yūnus narrated from Qatādah, that Anas said: "The Messenger of Allāh ﷺ never ate on a table, nor on small plates, nor did he eat thin bread." He (Yūnus) said: "I asked Qatādah: 'So what did he eat on?' He said: 'On these leather dining sheets.'" (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. Muḥammad bin Bash-shār said: "This Yūnus is Yūnus Al-Iskāf." And 'Abdul-Wārith bin Sa'eed reported similarly from Sa'eed bin Abī 'Arūbah, from Qatādah, from Anas [from the Prophet ﷺ].

١٧٨٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ: حَدَّثَنِي أَبِي عَنْ يُونُسَ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ قَالَ: ما أَكَلَ رَسُولُ اللهِ ﷺ عَلَى خِوَانٍ ولَا فِي سُكُرُّجَةٍ ولَا خُبِزَ لَهُ مُرَقَّقٌ: قَالَ: فَقُلْتُ لِقَتَادَةَ: فَعَلَى مَا كانُوا يَأْكُلُونَ؟ قَالَ: عَلَى هٰذِهِ السُّفَرِ.

[قَالَ أَبُو عِيسَى]: هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. قَالَ مُحَمَّدُ بْنُ بَشَّارٍ: يُونُسُ هٰذَا هُوَ يُونُسُ الْإِسْكَافُ. وقَدْ رَوَى عَبْدُ الوَارِثِ بْنُ سَعِيدٍ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ [عَنِ النَّبِيِّ ﷺ] نَحْوَهُ.

تخريج: وأخرجه البخاري، الأطعمة، باب الخبز المرقق والأكل على الخوان والسفرة، ح:٥٣٨٦ من حديث معاذ بن هشام به.

Comments:

The Messenger of Allāh ﷺ generally sat on a leather sheet (instead of a dining table) and ate simple, single-course food. He ate bread made from coarse, unsieved flour. He disliked eating multi-course lavish food arrayed on expensive dining tables as the rich do.

Chapter 2. What Had Been Related About Eating Rabbit

(المعجم ٢) - بَابُ مَا جَاءَ فِي أَكْلِ الْأَرْنَبِ (التحفة ٢)

1789. Hishām bin Zaid said: "I heard Anas saying: 'Once we provoked a rabbit at Marr Az-Zahrān. So the Companions of the Messenger of Allāh ﷺ rushed after it, and I caught up to it and captured it. I brought it to Abū Talhah who slaughtered it with *Marwah*.[1] He sent me with its legs – or its thighs – to the Prophet ﷺ so he could eat it.'" He (Hishām) said: "I said: 'He ate it?' He said: 'He accepted it.'" (***Sahīh***)

[Abū 'Eīsā said:] There are narrations on this topic from Jābir, 'Ammār, Muhammad bin Safwān, and they say: Muhammad bin Saifī.

This *Hadīth* is *Hasan Sahīh*. This is acted upon according to the people of knowledge. They saw no harm in eating rabbit. Some of the people of knowledge disliked eating rabbit, they said that it menstruates.

١٧٨٩ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ: أَخْبَرَنَا شُعْبَةُ عَنْ هِشَامِ بْنِ زَيْدٍ قَالَ: سَمِعْتُ أَنَسًا يَقُولُ: أَنْفَجْنَا أَرْنَبًا بِمَرِّ الظَّهْرَانِ فَسَعَى أَصْحَابُ رَسُولِ اللهِ ﷺ خَلْفَهَا، فَأَدْرَكْتُهَا فَأَخَذْتُهَا، فَأَتَيْتُ بِهَا أَبَا طَلْحَةَ فَذَبَحَهَا بِمَرْوَةٍ فَبَعَثَ مَعِي بِفَخِذِهَا أَوْ بِوَرِكِهَا إِلَى النَّبِيِّ ﷺ فَأَكَلَهُ، قَالَ: قُلْتُ: أَكَلَهُ؟ قَالَ: قَبِلَهُ.

[قَالَ أَبُو عِيسَى] وفِي الْبَابِ عَنْ جَابِرٍ وعَمَّارٍ ومُحَمَّدِ بْنِ صَفْوَانَ ويُقَالُ مُحَمَّدُ بْنُ صَيْفِيٍّ.

[و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، والْعَمَلُ عَلَى هذَا عِنْدَ أَكْثَرِ أَهْلِ الْعِلْمِ لَا يَرَوْنَ بِأَكْلِ الْأَرْنَبِ بَأْسًا، وقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ أَكْلَ الْأَرْنَبِ وقَالُوا: إِنَّهَا تُدْمِي.

تخريج: متفق عليه، وأخرجه البخاري، الذبائح والصيد، باب: في ما جاء في التصيد، ح:٥٤٨٩ ومسلم، ح:١٩٥٣ من حديث شعبة به وهو في مسند أبي داود الطيالسي، ح:٢٠٦٦ * وفي الباب عن جابر [تقدم: ١٤٧٢] وعمار ومحمد بن صفوان [أبو داود، ح:٢٨٢٢ وابن ماجه، ح:٣٢٤٤].

Comments:

The majority of scholars including the Four *A'immah* consider eating the rabbit lawful, since its permissibility is proved from authentic *Ahādīth*. Its proneness to menstruation is no bar to its permissibility. It is reported that Abdullāh bin Amr bin Al-'Ās, Ikrimah, and Muhammad bin Abī Lailā ﷺ considered it as a disliked food (*Tuhfat Al-Ahwadhī*, v.3, p.73 & *Sahīh Muslim* of Nawawī, v.2, p.152).

[1] A piece of granite or flint, used for cutting like a knife.

Chapter 3. (What Has Been Related) About Eating Mastigure[1]

(المعجم ٣) - بَابُ [مَا جَاءَ] فِي أَكْلِ الضَّبِّ (التحفة ٣)

1790. Ibn 'Umar narrated: "The Prophet ﷺ was asked about eating mastigure and he said: 'I do not eat it, and I do not prohibit eating it.'" (*Sahīh*)

[He said:] There are narrations on this topic from 'Umar, Abū Sa'eed, Ibn 'Abbās, Thābit bin Wadī'ah, Jābir, and 'Abdur-Rahmān bin Hasanah.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

The people of knowledge have differed over eating mastigure. Some of the people of knowledge among the Companions of the Prophet ﷺ and others permitted it, while others considered it disliked. It has been related that Ibn 'Abbās said: "Mastigure was eaten on the dinning spread of the Messenger of Allāh ﷺ, and the Messenger of Allāh ﷺ only avoided it because it was distasteful to him."

١٧٩٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنْ عَبْدِ اللهِ بْنِ دِينَارٍ، عَنِ ابْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ سُئِلَ عَنْ أَكْلِ الضَّبِّ، فَقَالَ: «لَا آكُلُهُ ولَا أُحَرِّمُهُ».

[قَالَ:] وفِي الْبَابِ عَنْ عُمَرَ وأَبِي سَعِيدٍ وابْنِ عَبَّاسٍ وثَابِتِ بْنِ وَدِيعَةَ وجَابِرٍ وَعَبْدِ الرَّحْمٰنِ بْنِ حَسَنَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وقَدِ اخْتَلَفَ أَهْلُ الْعِلْمِ فِي أَكْلِ الضَّبِّ، فَرَخَّصَ فِيهِ بَعْضُ أَهْلِ الْعِلْمِ مِنْ أَصْحَابِ النَّبِيِّ ﷺ وغَيْرِهِمْ وكَرِهَهُ بَعْضُهُمْ. ويُرْوَى عَنِ ابْنِ عَبَّاسٍ أَنَّهُ قَالَ: أُكِلَ الضَّبُّ عَلَى مَائِدَةِ رَسُولِ اللهِ ﷺ، وإِنَّمَا تَرَكَهُ رَسُولُ اللهِ ﷺ تَقَذُّرًا.

تخريج: [إسناده صحيح] وأخرجه النسائي، الصيد، باب الضب: ١٩٧/٧، ح: ٤٣١٩ عن قتيبة به وهو في الموطإ: ٩٦٨/٢ (يحيى) ورواه البخاري، ح: ٥٥٣٦ ومسلم، ح: ١٩٤٣ من حديث عبدالله بن دينار به * وفي الباب عن عمر [مسلم، ح: ١٩٥٠] وأبي سعيد [مسلم، ح: ١٩٥١/ ٥٠] وابن عباس [البخاري، ح: ٢٥٧٥ ومسلم، ح: ١٩٤٧] وثابت بن وديعة [أبو داود، ح: ٣٧٩٥ وابن ماجه، ح: ٣٢٣٨] وجابر [مسلم، ح: ١٩٤٩] وعبدالرحمن بن حسنة [أحمد: ١٩٦/٤].

Comments:

An-Nawawī said: "There is a consensus among the Muslims that the mastigure is lawful and it is not disliked, except for what has been mentioned from the followers of Abū Hanīfah about it being disliked, and what Al-Qādī 'Iyād mentioned from some people that they said it is unlawful. But I do not

[1] A type of lizard (uromastyx) that grows up to one or two feet in length.

think this is correct from any one of them, and if it were correct, then it is rejected due to the text and the consensus that occured before it.".

Chapter 4. What Has Been Related About Eating Badger

(المعجم ٤) - بَابُ مَا جَاءَ فِي أَكْلِ الضَّبُعِ (التحفة ٤)

1791. Ibn Abī 'Ammār said: "I asked Jābir: 'Is badger a kind of game animal?' He said: 'Yes.'" He said: "I said: 'Should I eat it?' He said: 'Yes.'" He said: 'I said: 'Did the Messenger of Allāh ﷺ say that?' He said: 'Yes.'" (*Ṣaḥīḥ*)[1]

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

Some of the people of knowledge followed this. They did not see any harm in eating badger. This is the view of Aḥmad and Isḥāq. A *Ḥadīth* has been related from the Prophet ﷺ indicating disapproval of eating badger but its chain is not strong. Some of the people of knowledge disliked eating badger. This is the view of Ibn Al-Mubārak. Yaḥya bin Al-Qaṭṭān said: "Jarīr bin Ḥāzim reported this *Ḥadīth* from 'Abdullāh bin 'Ubaid bin 'Umair, from Ibn Abī 'Ammār, from Jābir, from 'Umar, as his saying. And the narration of Ibn Juraij (a narrator in the chain of this *Ḥadīth*) is more correct. [And Ibn Abī 'Ammār is 'Abdur-Raḥmān bin 'Abdullāh bin Abī 'Ammār Al-Makkī].

١٧٩١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا ابْنُ جُرَيْجٍ عَنْ عَبْدِ اللهِ بْنِ عُبَيْدِ بْنِ عُمَيْرٍ، عَنِ ابْنِ أَبِي عَمَّارٍ، قَالَ: قُلْتُ لِجَابِرٍ: الضَّبُعُ صَيْدٌ هِيَ؟ قَالَ: نَعَمْ، قَالَ: قُلْتُ: آكُلُهَا؟ قَالَ: نَعَمْ، قَالَ: قُلْتُ: أَقَالَهُ رَسُولُ اللهِ ﷺ؟ قَالَ: نَعَمْ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وقَدْ ذَهَبَ بَعْضُ أَهْلِ الْعِلْمِ إِلَى هٰذَا وَلَمْ يَرَوْا بِأَكْلِ الضَّبُعِ بَأْسًا، وهُوَ قَوْلُ أَحْمَدَ وإِسْحَاقَ. ورُوِيَ عَنِ النَّبِيِّ ﷺ حَدِيثٌ فِي كَرَاهِيَةِ أَكْلِ الضَّبُعِ وَلَيْسَ إِسْنَادُهُ بِالْقَوِيِّ، وقَدْ كَرِهَ بَعْضُ أَهْلِ الْعِلْمِ أَكْلَ الضَّبُعِ، وهُوَ قَوْلُ ابْنِ الْمُبَارَكِ. قَالَ يَحْيَى بْنُ الْقَطَّانِ: وَرَوَى جَرِيرُ بْنُ حَازِمٍ هٰذَا الحَدِيثَ عَنْ عَبْدِ اللهِ بْنِ عُبَيْدِ بْنِ عُمَيْرٍ، عَنِ ابْنِ أَبِي عَمَّارٍ، عَنْ جَابِرٍ، عَنْ عُمَرَ قَوْلَهُ. وحَدِيثُ ابْنِ جُرَيْجٍ أَصَحُّ. [وابْنُ أَبِي عَمَّارٍ هُوَ عَبْدُالرَّحْمٰنِ بْنُ عَبْدِاللهِ بْنِ أَبِي عَمَّارٍ الْمَكِّيُّ.

تخريج: [صحيح] وأخرجه النسائي، مناسك الحج، باب ما يقتله المحرم:٥/١٩١، ح:٢٨٣٩ من حديث ابن جريج به ورواه أبو داود، ح:٣٨٠١ وابن ماجه، ح:٣٢٣٦ من حديث

[1] This narration preceded, see no. 851.

عبدالله بن عبيد بن عمير، وصححه ابن خزيمة، ح:٢٦٤٥، ٢٦٤٦ وابن حبان، ح:٩٧٩، ١٠٦٨ وابن الجارود، ح:٤٣٨، ٤٣٩ والحاكم:١/ ٢٥٢ وغيرهم.

Comments:

The *A'immah*: Ash-Shāfi'ī, Aḥmad, Isḥāq and 'Aṭā' consider the eating of badger lawful. Sad bin abi Waqqās and Ibn Abbās are also reported to have considered it lawful. Imām Ath-Thawrī, the People of Opinion, Mālik and Sa'eed bin Musayyab consider the eating of it disliked (*Tuḥfat Al-Aḥwadhī*,v.3,p.75).

1792. Khuzaimah bin Jaz' said: "I asked the Messenger of Allāh ﷺ about eating badger. He said: 'Does anyone eat badger?' So I asked him about eating wolf' He said: 'Does anyone who has any good in him eat wolf?'" (***Ḍa'īf***)

[Abū 'Eīsā said:] The chain for this *Ḥadīth* is not strong. We do not know of it except as a narration of Ismā'īl bin Muslim from 'Abdul-Karīm Abī Umayyah. Some of the people of *Ḥadīth* have criticized Ismā'īl and 'Abdul-Karīm Abī Umayyah. And he is 'Abdul-Karīm bin Qais, who is Ibn Abī Al-Mukhāriq. While 'Abdul-Karīm bin Mālik Al-Jazarī is trustworthy.

١٧٩٢ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو مُعَاوِيَةَ عَنْ إِسْمَاعِيلَ بْنِ مُسْلِمٍ، عَنْ عَبْدِ الكَرِيمِ [ابْنِ أَبِي الْمُخَارِقِ] أَبِي أُمَيَّةَ، عَنْ حِبَّانَ بْنِ جَزْءٍ، عَنْ أَخِيهِ خُزَيْمَةَ بْنِ جَزْءٍ قَالَ: سَأَلْتُ رَسُولَ اللهِ ﷺ عَنْ أَكْلِ الضَّبُعِ قَالَ: «وَيَأْكُلُ الضَّبُعَ أَحَدٌ؟» وسَأَلْتُهُ عَنْ أَكْلِ الذِّئْبِ فَقَالَ: «وَيَأْكُلُ الذِّئْبَ أَحَدٌ فِيهِ خَيْرٌ؟».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَيْسَ إِسْنَادُهُ بِالقَوِيِّ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ إِسْمَاعِيلَ بْنِ مُسْلِمٍ عَنْ عَبْدِ الكَرِيمِ أَبِي أُمَيَّةَ، وقَدْ تَكَلَّمَ بَعْضُ أَهْلِ الحَدِيثِ فِي إِسْمَاعِيلَ وعَبْدِ الْكَرِيمِ أَبِي أُمَيَّةَ وهُوَ عَبْدُ الكَرِيمِ بْنُ قَيْسٍ هُوَ ابْنُ أَبِي الْمُخَارِقِ، وَعَبْدُ الكَرِيمِ ابنُ مَالِكٍ الْجَزَرِيُّ ثِقَةٌ.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الصيد، باب الضبع، ح:٣٢٣٧ من حديث عبدالكريم به وهو ضعيف مشهور والحديث ضعفه البوصيري.

Comments:

The *Ḥadīth* being "weak" cannot be taken as proof of anything. As for the wolf, it being a predatory and ferocious animal it is forbidden to eat it. For more details please see *Tuḥfat Al-Aḥwadhī*, v.3, p.72-77.

Chapter 5. What Has Been Related About Eating Horse Meat

(المعجم ٥) - بَابُ مَا جَاءَ فِي أَكْلِ لُحُومِ الْخَيْلِ (التحفة ٥)

1793. Jābir narrated: "The

١٧٩٣ - حَدَّثَنَا قُتَيْبَةُ وَنَصْرُ بْنُ عَلِيٍّ

Messenger of Allāh ﷺ allowed us to eat horse meat, and he forbade us from eating donkey meat." (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Asmā' bint Abī Bakr. Abū 'Eīsā said: This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is how it was reported by more than one narrator; from 'Amr bin Dīnār from Jābir. Ḥammād bin Zaid reported it from 'Amr bin Dīnār from Muḥammad bin 'Alī, from Jābir. The narration of Ibn 'Uyainah (no. 1793) is more correct. He said: I heard Muḥammad saying: "Sufyān bin 'Uyainah is better at memorizing than Ḥammād bin Zaid."

قَالَا: حَدَّثَنَا سُفْيَانُ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ جَابِرٍ قَالَ: أَطْعَمَنَا رَسُولُ اللهِ ﷺ لُحُومَ الْخَيْلِ وَنَهَانَا عَنْ لُحُومِ الْحُمُرِ.

[قَالَ:] وفِي الْبَابِ عَنْ أَسْمَاءَ بِنْتِ أَبِي بَكْرٍ.

قَالَ أَبُو عِيسَى: [و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وهٰكَذَا رَوَى غَيْرُ واحِدٍ عَنْ عَمْرِو ابْنِ دِينَارٍ، عَنْ جَابِرٍ. وَرَوَاهُ حَمَّادُ بْنُ زَيْدٍ عَنْ عَمْرِو بْنِ دِينَارٍ، عَنْ مُحَمَّدِ بْنِ عَلِيٍّ، عَنْ جَابِرٍ، وَرِوَايَةُ ابْنِ عُيَيْنَةَ أَصَحُّ. قَالَ: وَسَمِعْتُ مُحَمَّدًا يَقُولُ: سُفْيَانُ بْنُ عُيَيْنَةَ أَحْفَظُ مِنْ حَمَّادِ بْنِ زَيْدٍ.

تخريج: [**صحيح**] وأخرجه النسائي، الصيد، باب الإذن في أكل لحوم الخيل: ٢٠١/٧، ح: ٤٣٣٣ عن قتيبة به سفيان هو ابن عيينة * حديث حماد بن زيد: أخرجه البخاري، ح: ٤٢١٩ وغيره، ومسلم، ح: ١٩٤١/٣٦ به * وفي الباب عن أسماء بنت أبي بكر [البخاري، ح: ٥٥١٠ ومسلم، ح: ١٩٤٢].

Comments:

The vast majority of scholars — past and present — allow the eating of horse meat. The same is the opinion of the two *Imām*, Abū Yūsuf and Muḥammad. Ibrāhim An-Nakha'ī and Hammād bin Abī Sulaimān also hold the same opinion. Imām Abū Ḥanīfah and Mālik consider it disliked. Not only this, Imām Abū Ḥanīfah considers it a sin to eat it.

Chapter 6. What Has Been Related About The Meat Of Domesticated Donkey

(المعجم ٦) - بَابُ مَا جَاءَ فِي لُحُومِ الْحُمُرِ الْأَهْلِيَّةِ (التحفة ٦)

1794. 'Abdullāh and Al-Ḥasan, the sons of Muḥammad bin 'Alī, narrated from their father, that 'Alī said: "During the time of Khaibar, the Messenger of Allāh ﷺ prohibited *Mut'ah* with women and eating the meat of domesticated donkeys." (*Ṣaḥīḥ*)

١٧٩٤ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ يَحْيَى بْنِ سَعِيدٍ الْأَنْصَارِيِّ، عَنْ مَالِكِ بْنِ أَنَسٍ، عَنِ الزُّهْرِيِّ؛ ح: وحَدَّثَنَا ابنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ عَبْدِ اللهِ

(Another chain) And 'Abdullāh bin Muḥammad's *Kunyah* is Abū Hāshim. Az-Zuhrī said: "Al-Ḥasan bin Muḥammad was the more acceptable of the two." And he mentioned similarly. Others besides Sa'eed bin 'Abdur-Raḥmān narrated from Ibn 'Uyainah: "And 'Abdullāh bin Muḥammad was the more acceptable of the two."

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*].

وَالْحَسَنِ ابْنَي مُحَمَّدِ بْنِ عَلِيٍّ، عَنْ أَبِيهِمَا، عَنْ عَلِيٍّ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ مُتْعَةِ النِّسَاءِ زَمَنَ خَيْبَرَ، وعَنْ لُحُومِ الْحُمُرِ الأَهْلِيَّةِ.

حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ الْمَخْزُومِيُّ: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ عَبْدِ اللهِ والْحَسَنِ هُما ابْنَا مُحَمَّدِ ابْنِ الْحَنَفِيَّةِ، وعَبْدُ اللهِ بْنُ مُحَمَّدٍ يُكْنَى أَبَا هَاشِمٍ قَالَ الزُّهْرِيُّ: وَكَانَ أَرْضَاهُمَا الْحَسَنُ بْنُ مُحَمَّدٍ فَذَكَرَ نَحْوَهُ. وَقَالَ غَيْرُ سَعِيدِ بْنِ عَبْدِ الرَّحْمٰنِ عَنِ ابْنِ عُيَيْنَةَ: وَكَانَ أَرْضَاهُمَا عَبْدُ اللهِ بْنُ مُحَمَّدٍ.

[قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ].

تخريج: متفق عليه، أخرجه البخاري، المغازي، باب غزوة خيبر، ح:٤٢١٦ مسلم، ح:١٤٠٧/ ٢٩ من حديث مالك به وحديث محمد بن أبي عمر تقدم: ١١٢١.

Comments:

There is now near unanimity among the People of *Sunnah* on the prohibition of (i) *Mut'ah* and (ii) the meat of the domesticated donkeys.

Note:The word *Mut'ah* (generally translated as temporary marriage) is an Arabic word meaning "usufruct" or "enjoyment". It is a kind of marriage still legal among the Shī'ah.!! To Shī'ah, it rather has a deeper religious connotation. Shī'ah scholars have defined *Mut'ah* as "a temporary marriage contracted for a fixed period in return for a compensation (to the woman)". It is also sometimes translated as a "marriage of pleasure".

1795. Abū Hurairah narrated: "On the Day of Khaibar, the Messenger of Allāh ﷺ prohibited every predator possessing canines, and the *Mujath-thamah*,[1] and the domestic donkey." (***Ḥasan***)

He said: There are narrations on

١٧٩٥ - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا حُسَيْنُ ابْنُ عَلِيٍّ [الْجُعْفِيُّ] عَنْ زَائِدَةَ، عَنْ مُحَمَّدِ ابْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ، حَرَّمَ يَوْمَ خَيْبَرَ، كُلَّ ذِي نَابٍ مِنَ السِّبَاعِ وَالْمُجَثَّمَةَ وَالْحِمَارَ الإِنْسِيَّ.

[1] An animal that is tied and then shot at.

this topic from 'Alī, Jābir, Al-Barā', Ibn Abī Awfā, Anas, Al-'Irbāḍ bin Sāriyah, Abū Tha'labah, Ibn 'Umar, and Abū Sa'eed.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

'Abdul-'Azīz bin Muḥammad and others reported this *Ḥadīth* from Muḥammad bin 'Amr, and they only mentioned one phrase: "The Messenger of Allāh ﷺ prohibited every predator possessing canines."

قَالَ: وفِي الْبَابِ عَنْ عَلِيٍّ وَجَابِرٍ وَالْبَرَاءِ وابْنِ أَبِي أَوْفَى وَأَنَسٍ والعِرْبَاضِ بْنِ سَارِيَةَ وأَبِي ثَعْلَبَةَ وَابْنِ عُمَرَ وأَبِي سَعِيدٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَرَوَى عَبْدُ الْعَزِيزِ بْنُ مُحَمَّدٍ وَغَيْرُهُ عَنْ مُحَمَّدِ بْنِ عَمْرٍو هٰذَا الْحَدِيثَ وَإِنَّمَا ذَكَرُوا حَرْفًا وَاحِدًا: نَهَى رَسُولُ اللهِ ﷺ عَنْ كُلِّ ذِي نَابٍ مِنَ السِّبَاعِ.

تخريج: [إسناده حسن] تقدم:١٤٧٩ * وفي الباب عن علي، [تقدم:١٧٩٤ وعبدالله بن أحمد في زوائد المسند:١/١٤٧] وجابر [تقدم:١٧٩٣] والبراء [البخاري، ح:٤٢٢٦ ومسلم، ح:١٩٣٨] وابن أبي أوفى [البخاري، ح:٣١٥٥ ومسلم، ح:١٩٤٧] وأنس [البخاري، ح:٢٩٩١] والعرباض بن سارية [تقدم:١٤٧٤] وأبي ثعلبة [البخاري، ح:٥٥٢٧ ومسلم، ح:١٩٣٦] وابن عمر [البخاري، ح:٥٥٢١ ومسلم، ح:٥٦١/ ٢٤ بعد، ح:١٩٣٦] وأبي سعيد [أحمد:٣/٩٨].

Comments:

Eating the meat of all the three types of animals has been prohibited here.

Chapter 7. What Has Been Related About Eating From Utensils Of The Disbelievers

(المعجم ٧) - بَابُ مَا جَاءَ فِي الأَكْلِ فِي آنِيَةِ الْكُفَّارِ (التحفة ٧)

1796. Abū Tha'labah Al-Khushanī narrated: "The Messenger of Allāh ﷺ was asked about the pots of the Zorastrians. He said: 'Clean them by washing them, and then cook in them.' And he prohibited every predator possessing canines."[1] **(*Ṣaḥīḥ*)**

This is a well known *Ḥadīth* of Abū Tha'labah, and it has been reported from him through routes other than this. And Abū Tha'labah's name is Jurthūm, and they say: Jurhum, and

١٧٩٦ - حَدَّثَنَا زَيْدُ بْنُ أَخْزَمَ الطَّائِيُّ: حَدَّثَنَا سَلْمُ بْنُ قُتَيْبَةَ: حَدَّثَنَا شُعْبَةُ عَنْ أَيُّوبَ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي ثَعْلَبَةَ قَالَ: سُئِلَ رَسُولُ اللهِ ﷺ عَنْ قُدُورِ الْمَجُوسِ فَقَالَ: «أَنْقُوهَا غَسْلًا وَاطْبُخُوا فِيهَا» وَنَهَى عَنْ كُلِّ سَبُعٍ ذِي نَابٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ مَشْهُورٌ مِنْ حَدِيثِ أَبِي ثَعْلَبَةَ، وَرُوِيَ عَنْهُ مِنْ غَيْرِ هٰذَا

[1] This *Ḥadīth* preceded under no. 1560.

they say: Nāshib. This *Hadīth* has also been mentioned by Abū Qilabah from Abū Asmā' Ar-Rahbī, from Abū Tha'labah.

الوَجْهِ. وأَبُو ثَعْلَبَةَ اسْمُهُ جُرْثُومٌ ويُقَالُ: جُرْهُمٌ وَيُقَالُ: نَاشِبٌ. وقَدْ ذُكِرَ هٰذَا الْحَدِيثُ عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي أَسْمَاءَ الرَّحَبِيِّ، عَنْ أَبِي ثَعْلَبَةَ.

تخريج: [صحيح] تقدم: ١٥٦٠.

Comments:

As far as possible we should avoid using the utensils used by the disbelievers, especially those in which they drink or cook prohibited articles of food and drink. If, however, we have no option but to use their utensils, we should thoroughly clean those particular pieces that they use for drinking or cooking prohibited items.

1797. Abū Tha'labah Al-Khushanī narrated that he said: "O Messenger of Allāh! We live in a land of the People of the Book and we cook in their containers, and drink from their vessels." The Messenger of Allāh ﷺ said: "If you do not find other than them, then rinse them with water."

Then he said: "O Messenger of Allāh! We live in a land of game, so what should we do?" He said: "When you send your trained dog, and you mentioned the Name of Allāh, and he kills it, then eat it. And when you shoot it with your bow, and you mentioned the Name of Allāh, and it is killed, then eat it."' (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٧٩٧ - حَدَّثَنَا عَلِيُّ بْنُ عِيسَى بْنِ يَزِيدَ الْبَغْدَادِيُّ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ مُحَمَّدٍ العَيْشِيُّ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ عَنْ أَيُّوبَ وَقَتَادَةَ، عَنْ أَبِي قِلَابَةَ، عَنْ أَبِي أَسْمَاءَ الرَّحَبِيِّ، عَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ أَنَّهُ قَالَ: يَا رَسُولَ اللهِ! إِنَّا بِأَرْضِ أَهْلِ الكِتَابِ فَنَطْبُخُ فِي قُدُورِهِمْ وَنَشْرَبُ فِي آنِيَتِهِمْ؟ فَقَالَ رَسُولُ اللهِ ﷺ: «إِنْ لَمْ تَجِدُوا غَيْرَهَا فارْحَضُوهَا بِالْمَاءِ»، ثُمَّ قَالَ: يَا رَسُولَ اللهِ! إِنَّا بِأَرْضِ صَيْدٍ فَكَيْفَ نَصْنَعُ؟ قَالَ: «إِذَا أَرْسَلْتَ كَلْبَكَ الْمُكَلَّبَ وَذَكَرْتَ اسْمَ اللهِ فَقَتَلَ فَكُلْ، وَإِنْ كانَ غَيْرَ مُكَلَّبٍ فَذُكِّيَ فَكُلْ، وإِذا رَمَيْتَ بِسَهْمِكَ وَذَكَرْتَ اسْمَ اللهِ فَقَتَلَ فَكُلْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وانظر الحديث السابق، ورواه أحمد: ٤/ ١٩٥ من حديث حماد بن سلمة به وأصله عند البخاري، ح: ٥٤٩٦.

Chapter 8. What Has Been Related About The Mouse That Dies In Cooking Fat

(المعجم ٨) - بَابُ مَا جَاءَ فِي الْفَأْرَةِ تَمُوتُ فِي السَّمْنِ (التحفة ٨)

1798. Ibn 'Abbās narrated from Maimūnah that a mouse fell in some cooking fat and died. So the Prophet ﷺ was asked about that and he said: "Remove it (the mouse) and what was around it and then eat it (the fat)." (***Sahīh***)

[He said:] There is something on this topic from Abū Hurairah.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. This *Hadīth* has been related from Az-Zuhrī, from 'Ubaidullāh, from Ibn 'Abbās, saying: "The Prophet ﷺ was asked" and they did not mention Maimūnah in it. The narration of Ibn 'Abbās from Maimūnah is more correct. Ma'mar reported similar from Az-Zuhrī, from Sa'eed bin Al-Musayyab, from Abū Hurairah, from the Prophet ﷺ. But this *Hadīth* is not preserved. [He said:] I heard Muhammad bin Ismā'īl saying: "The *Hadīth* of Ma'mar from Az-Zuhrī, from Sa'eed bin Al-Musayyab, from Abū Hurairah, from the Prophet ﷺ" – [and he mentioned in it: 'That he was asked about it, so he said: "When it (the cooking fat) is solid then remove it (the mouse) and what was around it. And when it is liquid then do not use it."'] This is a mistake. [Ma'mar made a mistake with it. And he said:] What is correct is the narration of Az-Zuhrī from 'Ubaidullāh, from Ibn 'Abbās, from Maimūnah."

١٧٩٨ - حَدَّثَنَا سَعِيدُ بْنُ عَبْدِ الرَّحْمٰنِ الْمَخْزُومِيُّ وأَبُو عَمَّارٍ قَالَا: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ، عَنِ ابْنِ عَبَّاسٍ، عَنْ مَيْمُونَةَ أَنَّ فَأْرَةً وَقَعَتْ فِي سَمْنٍ فَمَاتَتْ، فَسُئِلَ عَنْهَا النَّبِيُّ ﷺ فَقَالَ: «أَلْقُوهَا وَمَا حَوْلَهَا فَكُلُوهُ».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ. [قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ سُئِلَ وَلَمْ يَذْكُرُوا فِيهِ عَنْ مَيْمُونَةَ. وحَدِيثُ ابْنِ عَبَّاسٍ عَنْ مَيْمونَةَ أَصَحُّ. وَرَوَى مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ. وهٰذَا حَدِيثٌ غَيْرُ مَحْفُوظٍ، [قَالَ:] وسَمِعْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ يَقُولُ: حَدِيثُ مَعْمَرٍ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ [وذَكَرَ فِيهِ: أَنَّهُ سُئِلَ عَنْهُ، فَقَالَ: «إِذا كانَ جامِدًا فَأَلْقُوهَا وَمَا حَوْلَها وإِنْ كانَ مَائِعًا فَلَا تَقْرَبُوهُ]. هٰذَا خَطَأٌ [أَخْطَأَ فِيهِ مَعْمَرٌ. قَالَ:] والصَّحِيحُ حَدِيثُ الزُّهْرِيِّ عَنْ عُبَيْدِ اللهِ، عَنِ ابْنِ عَبَّاسٍ، عَنْ مَيْمُونَةَ.

Comments:

If the fat (or oil) is solid, then you can determine what is around the dead mouse. Therefore, the entire fat shall not be made impure. If, on the contrary, the cooking fat is in liquid form, there is no determining what particular part is around it, and the mouse might have floated all around. As such the entire fat shall become impure.

تخريج: وأخرجه البخاري، الذبائح والصيد، باب: إذا وقعت الفأرة في السمن الجامد أو الذائب، ح:٥٥٣٨ من حديث سفيان بن عيينة به * وفي الباب عن أبي هريرة [أبو داود، ح:٣٨٤٢ وعلقه البخاري، ح:٥٥٣٨] * حديث معمر: ذكره البخاري، ح:٥٥٣٨ تحت حديث سفيان بن عيينة، ردًّا على معمر.

Chapter 9. What Has Been Related About The Prohibition Of Eating And Drinking With The Left Hand

(المعجم ٩) - **بَابُ مَا جَاءَ فِي النَّهْيِ، عَنِ الْأَكْلِ وَالشُّرْبِ بِالشِّمَالِ** (التحفة ٩)

1799. 'Abdullāh bin 'Umar narrated that the Prophet ﷺ said: "Let none of you eat with his left hand nor drink with his left hand, for indeed *Ash-Shaiṭān* eats with his left hand and drinks with his left hand." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, 'Umar bin Abī Salamah, Salamah bin Al-Akwa', Anas bin Mālik, and Ḥafṣah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This is how Mālik and Ibn 'Uyainah reported it from Az-Zuhrī, from Abū Bakr bin 'Ubaidullāh, from Ibn 'Umar. Ma'mar and 'Uqail reported it from Az-Zuhrī, from Sālim, from Ibn 'Umar. And the narration of Mālik and Ibn 'Uyainah is more correct.

١٧٩٩ - **حَدَّثَنَا** إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا عَبْدُ اللهِ بْنُ نُمَيْرٍ: حَدَّثَنَا عُبَيْدُ اللهِ بْنُ عُمَرَ عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي بَكْرِ بْنِ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ بْنِ عُمَرَ، عَنْ عَبْدِ اللهِ بْنِ عُمَرَ: أَنَّ النَّبِيَّ ﷺ قَالَ: «لَا يَأْكُلْ أَحَدُكُمْ بِشِمَالِهِ وَلَا يَشْرَبْ بِشِمَالِهِ فَإِنَّ الشَّيْطَانَ يَأْكُلُ بِشِمَالِهِ وَيَشْرَبُ بِشِمَالِهِ».

[قَالَ:] وفِي الْبَابِ عَنْ جَابِرٍ وعُمَرَ بْنِ أَبِي سَلَمَةَ وسَلَمَةَ بْنِ الأَكْوَعِ وَأَنَسِ بْنِ مَالِكٍ وَحَفْصَةَ.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَهٰكَذَا رَوَى مَالِكٌ وابْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ أَبِي بَكْرِ بْنِ عُبَيْدِ اللهِ، عَنِ ابْنِ عُمَرَ. وَرَوَى مَعْمَرٌ وَعُقَيْلٌ عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنِ ابْنِ عُمَرَ. وَرِوَايَةُ مَالِكٍ وابْنِ عُيَيْنَةَ أَصَحُّ.

تخريج: وأخرجه مسلم، الأشربة، باب آداب الطعام والشراب وأحكامهما، ح:٢٠٢٠ من حديث ابن نمير به * وفي الباب عن جابر [مسلم، ح:٢٠١٩] وعمر بن أبي سلمة [البخاري، ح:٥٣٧٦ ومسلم، ح:٢٠٢٢] وسلمة بن الأكوع [مسلم، ح:٢٠٢١] وأنس بن مالك [أحمد:٣/ ٢٠٢، ٢٥٤ وابن أبي شيبة:٨/ ١٠٤] وحفصة [أبو داود، ح:٣٢].

Comments:

The *Ḥadīth* proves that it does not behove a believer to eat or drink with his left hand without an imperative need or justification. It is the *Shaitān* and his disciples that eat and drink with the left. Muslims must not emulate their model. The *Ḥadīth* obviously prohibits the use of left hand for eating and drinking (*Tuḥfat Al-Aḥwadhī*, v.3, p.81).

1800. [Az-Zuhrī narrated from Sālim, from his father, that the Messenger of Allāh ﷺ said: "When one of you eats, then let him eat with his right hand, and let him drink with his right hand, for indeed *Ash-Shaiṭān* eats with his left hand, and he drinks with his left hand."] (*Ṣaḥīḥ*)

١٨٠٠ - [حَدَّثَنَا عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمٰنِ قَالَ: حَدَّثَنَا جَعْفَرُ بْنُ عَوْنٍ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنْ أَبِيهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِذَا أَكَلَ أَحَدُكُمْ فَلْيَأْكُلْ بِيَمِينِهِ وَلْيَشْرَبْ بِيَمِينِهِ فَإِنَّ الشَّيْطَانَ يَأْكُلُ بِشِمَالِهِ وَيَشْرَبُ بِشِمَالِهِ»].

تخريج: [صحيح] وانظر الحديث السابق.

Chapter 10. What Has Been Related About Licking The Fingers (After The Meal)

(المعجم ١٠) - بَابُ مَا جَاءَ فِي لَعْقِ الْأَصَابِعِ [بَعْدَ الْأَكْلِ] (التحفة ١٠)

1801. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "When one of you eats, then let him lick his fingers, for indeed he does not know in which of them is the blessing." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Ka'b bin Mālik, and Anas.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it except from this route, as a narration of Suhail. [I asked Muḥammad about this *Ḥadīth*, so he

١٨٠١ - حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ المَلِكِ بْنِ أَبِي الشَّوَارِبِ: حَدَّثَنَا عَبْدُ العَزِيزِ بْنُ المُخْتَارِ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا أَكَلَ أَحَدُكُمْ فَلْيَلْعَقْ أَصَابِعَهُ فَإِنَّهُ لَا يَدْرِي فِي أَيَّتِهِنَّ الْبَرَكَةُ».

[قَالَ:] وفِي الْبَابِ عَنْ جَابِرٍ وَكَعْبِ بْنِ مَالِكٍ وَأَنَسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الوَجْهِ مِنْ حَدِيثِ

said: "This is among the diverse[1] narrations of 'Abdul-'Azīz, we do not know of it except from his narration."

سُهَيْلٍ. [وسَأَلْتُ مُحَمَّدًا عَنْ هٰذَا الحَدِيثِ فَقَالَ: هٰذَا حَدِيثُ عَبْدِالْعَزِيزِ مِنَ الْمُخْتَلَفِ لَا يُعْرَفُ إِلَّا مِنْ حَدِيثِهِ].

تخريج: وأخرجه مسلم، الأشربة، باب استحباب لعق الأصابع والقصعة ... [إلخ، ح:٢٠٣٥ من حديث سهيل به * وفي الباب عن جابر [مسلم، ح:٢٠٣٣ ويأتي:١٨٠٢] وكعب بن مالك [الترمذي في الشمائل، ح:١٣٦، ١٤٠] وأنس [يأتي:١٨٠٣].

Comments:

Food is a blessing from Allāh. As such, each part of it must be accorded due respect and value, since we do not know in which part of our food is Allāh's blessing. Therefore, whatever part of food remains stuck on the fingers or in the container must be consumed as a prized gift from Allāh. This will, on the one hand, be the demonstration of our gratitude for the provision bestowed by Allāh, and on the other, recognition of our own poverty and need before Allāh (*Tuḥfat Al-Aḥwadhī*, v.3, p.81).

Chapter 11. What Has Been Related About The Fallen Morsel

(المعجم ١١) - بَابُ مَا جَاءَ فِي اللُّقْمَةِ تَسْقُطُ (التحفة ١١)

1802. Jābir narrated that the Prophet ﷺ said: "When one of you eats food, and he drops a piece of it, then let him remove anything suspicious from it and eat it. Do not leave it for *Ash-Shaiṭān*." (*Ṣaḥīḥ*)

[He said:] There is something about this from Anas.

١٨٠٢ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا ابْنُ لَهِيعَةَ عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «إِذَا أَكَلَ أَحَدُكُمْ طَعَامًا فَسَقَطَتْ لُقْمَةٌ فَلْيُمِطْ مَا رَابَهُ مِنْهَا ثُمَّ لِيَطْعَمْهَا وَلَا يَدَعْهَا لِلشَّيْطَانِ».

[قَالَ:] وفِي الْبَابِ عَنْ أَنَسٍ.

تخريج: وأخرجه مسلم، أيضًا، ح:٢٠٣٣ من حديث أبي الزبير به * وفي الباب عن أنس [يأتي: ١٨٠٣].

1803. Anas narrated: "When the Prophet ﷺ ate, he would lick his

١٨٠٣ - حَدَّثَنَا الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ:

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[1] The meaning here is not clear, if it is correct. Some earlier publications - like *'Āridat Al-Aḥwadhī* contain this addition, while others - like *Tuḥfat Al-Aḥwadhī* - do not. If it is correct, then "*Al-Mukhtalaf*" could mean "contradicted" but the statement after that indicates otherwise. In *Al-'Ilal Al-Kabīr*, the author quotes it as follows from *Al-Bukhārī*: "This *Ḥadīth* of 'Abdul-'Azīz bin Al-Mukhtār, we do not know of it except from his narration." So it appears this is what is correct and Allāh knows best.

three fingers, and he said: 'If one of you drops a piece (of food) then let him remove any harm (dirt) from it and eat it, and do not leave it for *Ash-Shaiṭān*.' And he would order us to finish (clean) the dish. And he said: 'Indeed you do not know in which part of your food is the blessing." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb Ṣaḥīḥ*.

حَدَّثَنَا عَفَّانُ بْنُ مُسْلِمٍ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ: حَدَّثَنَا ثَابِتٌ عَنْ أَنَسٍ: أَنَّ النَّبِيَّ ﷺ كَانَ إِذَا أَكَلَ طَعَامًا لَعِقَ أَصَابِعَهُ الثَّلَاثَ وقَالَ: «إِذَا ما وَقَعَتْ لُقْمَةُ أَحَدِكُمْ فَلْيُمِطْ عَنْهَا الْأَذَى وَلْيَأْكُلْهَا وَلَا يَدَعْهَا لِلشَّيْطَانِ» وَأَمَرَنَا أَنْ نَسْلُتَ الصَّحْفَةَ، وقَالَ: «إِنَّكُمْ لَا تَدْرُونَ فِي أَيِّ طَعَامِكُمُ الْبَرَكَةُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، أيضًا، ح: ٢٠٣٤ من حديث حماد بن سلمة به.

Comments:

If a piece of food drops from the hand, we must not leave it like an arrogant individual, but pick it up, clean it and eat it like a needy and respectful servant of the Supreme Master and Provider.

1804. Al-Mu'allā bin Rāshid narrated: "My grandmother, Umm 'Āṣim narrated to me – and she was the slave woman of Sinān bin Salamah – she said: 'Nubaishah Al-Khair entered upon us while we were eating from a large bowl. He narrated to us that the Messenger of Allāh ﷺ said: "Whoever eats from a *Qaṣ'ah*,[1] then licks it, the *Qaṣ'ah* will seek forgiveness for him." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except through the narration of Al-Mu'allā bin Rāshid. And Yazīd bin Hārūn and others among the *A'immah* reported this *Ḥadīth* from Al-Mu'allā bin Rāshid.

١٨٠٤ - **حَدَّثَنَا** نَصْرُ بْنُ عَلِيٍّ الْجَهْضَمِيُّ: حَدَّثَنَا الْمُعَلَّى بْنُ رَاشِدٍ قَالَ: حَدَّثَتْنِي جَدَّتِي أُمُّ عَاصِمٍ، - وكانَتْ أُمَّ وَلَدٍ لِسِنَانِ بْنِ سَلَمَةَ - قَالَتْ: دَخَلَ عَلَيْنَا نُبَيْشَةُ الْخَيْرُ وَنَحْنُ نَأْكُلُ فِي قَصْعَةٍ فَحَدَّثَنَا أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَنْ أَكَلَ فِي قَصْعَةٍ ثُمَّ لَحِسَهَا اسْتَغْفَرَتْ لَهُ الْقَصْعَةُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ الْمُعَلَّى بْنِ رَاشِدٍ. وَقَدْ رَوَى يَزِيدُ بْنُ هَارُونَ وَغَيْرُ وَاحِدٍ مِنَ الْأَئِمَّةِ عَنِ الْمُعَلَّى بْنِ رَاشِدٍ هٰذَا الْحَدِيثَ.

[1] A type of large bowl.

تخريج: [إسناده ضعيف] وأخرجه ابن ماجه، الأطعمة، باب تنقية الصحفة، ح:٣٢٧١ من حديث أبي اليمان به * أم عاصم، لم أجد لها توثيقًا وباقي السند حسن.

Comments:

Eating all of the food - withont waste - is indicative of the persons modesty and his respect and gratitude for the provisions and blessings of Allāh. On the other hand, it reflects his good sense in guarding Allāhs' gift against waste and neglect.

Chapter 12. What Has Been Related About It Being Disliked To Eat From The Middle Of The Food

(المعجم ١٢) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْأَكْلِ مِنْ وَسَطِ الطَّعَامِ (التحفة ١٢)

1805. Ibn 'Abbās narrated that the Prophet ﷺ said: "Indeed the blessing descends to the middle of the food, so eat from its edges, and do not eat from its middle." (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. It is only known through the narration of 'Aṭā' bin As-Sā'ib. Shu'bah and Ath-Thawrī reported from 'Aṭā' bin As-Sā'ib.

There is something about this topic from Ibn 'Umar.

١٨٠٥ - حَدَّثَنَا أَبُو رَجَاءٍ: حَدَّثَنَا جَرِيرٌ عَنْ عَطَاءٍ، عَنِ السَّائِبِ، عَنْ سَعِيدِ بْنِ جُبَيْرٍ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «إِنَّ الْبَرَكَةَ تَنْزِلُ وَسَطَ الطَّعَامِ فَكُلُوا مِنْ حَافَتَيْهِ وَلَا تَأْكُلُوا مِنْ وَسَطِهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ، إِنَّمَا يُعْرَفُ مِنْ حَدِيثِ عَطَاءِ بْنِ السَّائِبِ، وقَدْ رَوَى شُعْبَةُ والثَّوْرِيُّ عَنْ عَطَاءِ ابْنِ السَّائِبِ.

وفِي الْبَابِ عَنِ ابْنِ عُمَرَ.

تخريج: [حسن] وأخرجه أبو داود، الأطعمة، باب الأكل من أعلى الصحفة، ح:٣٧٧٢ وابن ماجه، ح:٣٢٧٧ من حديث عطاء بن السائب به ورواه شعبة عن عطاء به، أبو داود، ح:٣٧٧٢ وغيره * وفي الباب عن ابن عمر [لم أجده] ورواه أحمد ٢/٧ ح:٤٥١٤ بلفظ آخر والله أعلم.

Comments:

Blessing is a phenomenon hidden to the naked eye. The Messenger of Allāh ﷺ was aware of it. It was on the basis of this knowledge that he informed the Companions that the blessing descends in the middle of the food, and then spreads to the edges. Diners must, therefore, avoid the middle and eat from the edges so that the blessing continues to descend on the middle.

Chapter 13. What Has Been Related About It Being Disliked To Eat Garlic And Onion

(المعجم ١٣) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَكْلِ الثُّومِ وَالْبَصَلِ (التحفة ١٣)

1806. Jābir narrated that the Messenger of Allāh ﷺ said: "Whoever eats from these – the first time he said garlic, then he said – garlic, onion, and leek, then let him not approach our *Masjid*." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

He said: There are narrations on this topic from 'Umar, Abū Ayyūb, Abū Hurairah, Abū Sa'eed, Jābir bin Samurah, Qurrah [bin Iyās Al-Muzanī] and Ibn 'Umar.

١٨٠٦ - **حَدَّثَنَا** إِسْحَاقُ بْنُ مَنْصُورٍ: أَخْبَرَنَا يَحْيَى بْنُ سَعِيدٍ الْقَطَّانُ عَنِ ابْنِ جُرَيْجٍ: حَدَّثَنَا عَطَاءٌ عَنْ جَابِرٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ أَكَلَ مِنْ هَذِهِ - قَالَ: أَوَّلَ مَرَّةٍ الثُّومِ، ثُمَّ قَالَ: - الثُّومِ والبَصَلِ والكُرَّاثِ، فَلَا يَقْرَبْنَا فِي مَسَاجِدِنَا».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

قَالَ: وفِي الْبَابِ عَنْ عُمَرَ وأَبِي أَيُّوبَ وأَبِي هُرَيْرَةَ وأَبِي سَعِيدٍ وجَابِرِ بْنِ سَمُرَةَ وَقُرَّةَ [ابْنِ إِيَاسٍ الْمُزَنِيِّ] وابْنِ عُمَرَ.

تخريج: متفق عليه، أخرجه البخاري، الأذان، باب ما جاء في الثوم النيء والبصل والكراث، ح:٨٥٤، ٨٥٥ ومسلم، المساجد، باب نهي من أكل ثومًا أو بصلاً أو كراثًا أو نحوها مما له رائحة كريهة . . . إلخ، ح:٥٦٤/ ٧٤، ٧٥ من حديث ابن جريج به * وفي الباب عن عمر [مسلم، ح:٥٦٧] وأبي أيوب [مسلم، ح:٢٠٥٣] وأبي هريرة [مسلم، ح:٥٦٣ وابن ماجه، ح:١٠١٥] وأبي سعيد [مسلم، ح٥٦٦] وجابر بن سمرة [يأتي:١٨٠٧] وقرة بن أياس المزني [أبو داود، ح:٣٨٢٧] وابن عمر [البخاري، ح:٨٥٣ ومسلم، ح:٥٦١ وابن ماجه، ح:١٠١٦].

Comments:

The *Ḥadīth* instructs us that a person should avoid entering the meeting places, especially the *Masājid*, if he has consumed items of food- even lawful food- that emits a foul odor and causes annoyance to the people.

1807. [Jābir bin Samurah narrated: "The Messenger of Allāh ﷺ was staying with Abū Ayyūb. When he ate some food, he would send what was left to him. So one day he sent him some food but the Prophet ﷺ did not eat from it. So Abū Ayyūb went to the Prophet ﷺ and

١٨٠٧ - [**حَدَّثَنَا** مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ: أَنْبَأَنَا شُعْبَةُ عَنْ سِمَاكِ بْنِ حَرْبٍ سَمِعَ جَابِرَ بْنَ سَمُرَةَ يَقُولُ: نَزَلَ رَسُولُ اللهِ ﷺ عَلَى أَبِي أَيُّوبَ، وكَانَ إِذَا أَكَلَ طَعَامًا بَعَثَ إِلَيْهِ بِفَضْلِهِ، فَبَعَثَ إِلَيْهِ يَوْمًا بِطَعَامٍ ولَمْ يَأْكُلْ مِنْهُ النَّبِيُّ ﷺ فَلَمَّا أَتَى أَبُو أَيُّوبَ النَّبِيَّ

mentioned that to him. The Prophet ﷺ said: 'It contained garlic.' So he said: 'O Messenger of Allāh! Is it unlawful?' He said: 'No. I dislike it because of its odor.'" (*Ṣaḥīḥ*)

He said: This Hadīth is Ḥasan Ṣaḥīḥ].

ﷺ فَذَكَرَ ذٰلِكَ لَهُ، فَقَالَ النَّبِيُّ ﷺ: «فِيهِ الثُّومُ». فَقَالَ: يَا رَسُولَ اللهِ! أَحَرَامٌ هُوَ؟ قَالَ: «لَا، ولَكِنِّي أَكْرَهُهُ مِنْ أَجْلِ رِيحِهِ».

قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ].

تخريج: وأخرجه مسلم، الأشربة، باب إباحة أكل الثوم . . . إلخ، ح: ٢٠٥٣ من حديث شعبة به.

Comments:

There is no harm in consuming cooked garlic, onion and leek because cooking almost neutralizes their odor

Chapter 14. What Has Been Related About The Permission To Eat Cooked Garlic

(المعجم ١٤) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي أَكْلِ الثُّومِ مَطْبُوخًا (التحفة ١٤)

1808. Sharīk bin Ḥanbal narrated that 'Alī said: "Eating garlic was prohibited except when cooked." (*Ḍa'īf*)

١٨٠٨ - حَدَّثَنَا مُحَمَّدُ بْنُ مَدُّويَه: حَدَّثَنَا مُسَدَّدٌ: حَدَّثَنَا الْجَرَّاحُ بْنُ مَلِيحٍ وَالِدُ وَكِيعٍ، عَنْ أَبِي إِسْحَاقَ، عَنْ شَرِيكِ بْنِ حَنْبَلٍ، عَنْ عَلِيٍّ أَنَّهُ قَالَ: نُهِيَ عَنْ أَكْلِ الثُّومِ إِلَّا مَطْبُوخًا.

تخريج: [**إسناده ضعيف**] وأخرجه أبو داود، الأطعمة، باب: في أكل الثوم، ح: ٣٨٢٨ عن مسدد به * أبوإسحاق عنعن واختلط ولا يعرف سماع الجراح منه: قبل اختلاطه أم بعده؟.

1809. Sharīk bin Ḥanbal narrated that 'Alī said: "Eating garlic is no good, except when cooked." (*Ḍa'īf*)

[Abū 'Eīsā said:] This chain for this Hadīth is not strong. It has been reported as a saying of 'Alī, and it has been reported from Sharīk bin Ḥanbal from the Prophet ﷺ in *Mursal* form. Muḥammad said: "Al-Jarrāḥ bin Malīḥ (one of the narrators) is truthful, and Al-Jarrāḥ bin Aḍ-Ḍaḥḥāk is *Muqārib* (average) in Hadīth.

١٨٠٩ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وَكِيعٌ عَنْ أَبِيهِ، عَنْ أَبِي إِسْحَاقَ، عَنْ شَرِيكِ بْنِ حَنْبَلٍ، عَنْ عَلِيٍّ قَالَ: لَا يَصْلُحُ أَكْلُ الثُّومِ إِلَّا مَطْبُوخًا.

[قَالَ أَبُو عِيسَى:] هٰذَا الحَدِيثُ لَيْسَ إِسْنَادُهُ بِذٰلِكَ القَوِيِّ، وقَدْ رُوِيَ هٰذَا عَنْ عَلِيٍّ قَوْلُهُ ورُوِيَ عَنْ شَرِيكِ بْنِ حَنْبَلٍ عَنِ النَّبِيِّ ﷺ مُرْسَلًا. قَالَ مُحَمَّدٌ: الْجَرَّاحُ بْنُ مَلِيحٍ

صَدُوقٌ والْجَرَّاحُ بْنُ الضَّحَّاكِ مُقَارِبُ الْحَدِيثِ.

تخريج: [**إسناده ضعيف**] وانظر الحديث السابق.

1810. 'Ubaidullāh bin Abī Buraidah narrated from his father that Umm Ayyūb informed him that the Prophet ﷺ had stayed with them, and they prepared some food for him containing some of these vegetables. But he disliked eating it, so he said to his Companions: "Eat it, for I am not like you are, I fear that I will offend my companion."[1] (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh Gharīb*. Umm Ayyūb is the wife of Abū Ayyūb Al-Ansārī.

١٨١٠ - **حَدَّثَنَا** الْحَسَنُ بْنُ الصَّبَّاحِ الْبَزَّارُ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عُبَيْدِ اللهِ ابْنِ أَبِي يَزِيدَ، عَنْ أَبِيهِ، عَنْ أُمِّ أَيُّوبَ أَخْبَرَتْهُ: أَنَّ النَّبِيَّ ﷺ نَزَلَ عَلَيْهِمْ، فَتَكَلَّفُوا لَهُ طَعَامًا فِيهِ مِنْ بَعْضِ هٰذِهِ الْبُقُولِ، فَكَرِهَ أَكْلَهُ، فَقَالَ لِأَصْحَابِهِ: «كُلُوهُ فَإِنِّي لَسْتُ كَأَحَدِكُمْ إِنِّي أَخَافُ أَنْ أُوذِيَ صَاحِبِي».

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ. وأُمُّ أَيُّوبَ هِيَ امْرَأَةُ أَبِي أَيُّوبَ الْأَنْصَارِيِّ.

تخريج: [**صحيح**] وأخرجه ابن ماجه، الأطعمة، باب أكل الثوم والبصل والكراث، ح:٣٣٦٤ من حديث سفيان بن عيينة به وصرح بالسماع عند الحميدي، ح:٣٤٠ وصححه ابن خزيمة، ح:١٦٧١ وابن حبان، ح:٢٠٩٠ وللحديث شواهد * أبو يزيد، حسن الحديث.

Comments:

Some foul odor lingers in garlic, even when cooked, and the Angels abhor foul odor. As such, the Prophet ﷺ avoided eating even cooked garlic. He, however, allowed others to consume it because, cooking considerably decreases, even makes its bad odour almost imperceptible.

1811. Abū Khaldah narrated that Abū Al-'Āliyah said: "Garlic is among the good provisions." Abū Khaldah's name is Khālid bin Dīnār, and he is trustworthy according to the people of *Hadīth*. He saw Anas bin Mālik and heard narrations from him. Abū Al-'Āliyah's name is Rufai' and he is

١٨١١ - **حَدَّثَنَا** مُحَمَّدُ بْنُ حُمَيْدٍ: حَدَّثَنَا زَيْدُ بْنُ الْحُبَابِ عَنْ أَبِي خَلْدَةَ، عَنْ أَبِي الْعَالِيَةِ قَالَ: الثُّومُ مِنْ طَيِّبَاتِ الرِّزْقِ. وأَبُو خَلْدَةَ اسْمُهُ خَالِدُ بْنُ دِينَارٍ، وهُوَ ثِقَةٌ عِنْدَ أَهْلِ الْحَدِيثِ. وقَدْ أَدْرَكَ أَنَسَ بْنَ مَالِكٍ وسَمِعَ مِنْهُ. وأَبُو الْعَالِيَةِ اسْمُهُ رُفَيْعٌ وهُوَ

[1] Meaning Jibrīl, peace be upon him.

Ar-Riyāḥī. 'Abdur-Raḥmān bin Mahdi said: "Abū Khaldah was preferable, reliable." (*Ḍa'īf*)

الرِّيَاحِيُّ. قَالَ عَبْدُ الرَّحْمٰنِ بْنُ مَهْدِيٍّ: كَانَ أَبُو خَلْدَةَ خِيَارًا مُسْلِمًا.

تخريج: [إسناده ضعيف] * محمد بن حميد الرازي ضعيف على الراجح، انظر تهذيب التهذيب وغيره.

Chapter 15. What Has Been Related About Covering The Vessels, And Extinguishing The Torches And Fires Prior To Sleeping

(المعجم ١٥) - بَابُ مَا جَاءَ فِي تَخْمِيرِ الْإِنَاءِ وَإِطْفَاءِ السِّرَاجِ وَالنَّارِ عِنْدَ الْمَنَامِ (التحفة ١٥)

1812. Jābir narrated that the Prophet ﷺ said: "Close the door, tie the water-skin, turn over the vessel, or cover the vessel, and extinguish the torch. Indeed *Ash-Shaiṭān* does not open what is closed, nor undo what is fastened, nor uncover a vessel, but the small vermin may cause a fire in people's houses." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn 'Umar, Abū Hurairah, and Ibn 'Abbās.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, and it has been reported through other routes from Jābir.

١٨١٢ - **حَدَّثَنَا** قُتَيْبَةُ عَنْ مَالِكٍ [ابْنِ أَنَسٍ]، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ قَالَ: قَالَ النَّبِيُّ ﷺ: «أَغْلِقُوا البَابَ وَأَوْكِئُوا السِّقَاءَ وأَكْفِئُوا الْإِنَاءَ أَوْ خَمِّرُوا الْإِنَاءَ، وَأَطْفِئُو المِصْبَاحَ، فَإِنَّ الشَّيْطَانَ لَا يَفْتَحُ غُلُقًا، ولَا يَحُلُّ وِكَاءً، ولَا يَكْشِفُ آنِيَةً، فَإِنَّ الفُوَيْسِقَةَ تَضْرِمُ عَلَى النَّاسِ بَيْتَهُمْ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ وأَبِي هُرَيْرَةَ وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ جَابِرٍ.

تخريج: وأخرجه مسلم، الأشربة، باب استحباب تخمير الإناء وهو تغطيته وإيكاء السقاء ... إلخ، ح:٢٠١٢ من حديث مالك به وهو في الموطإ:٢/٩٢٨، ٩٢٩ * وفي الباب عن ابن عمر [يأتي:١٨١٣] وأبي هريرة [ابن ماجه، ح:٣٤١١] وابن عباس [أبو داود، ح:٥٢٤٧].

Comments:

a. Another sound *Ḥadīth* tells us that while or before doing the stated tasks, Allāh's Name must be invoked.

b. Fire, if left unattended, can easily break out and burn. Therefore, in order to forestall the potential danger to the house from burning fire, it must be extinguished before going to sleep.

1813. Sālim narrated from his father, that the Messenger of Allāh ﷺ said: "Do not leave the fire (burning) in your houses when you sleep." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨١٣ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ وغَيْرُ وَاحِدٍ، قَالُوا: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ سَالِمٍ، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا تَتْرُكُوا النَّارَ فِي بُيُوتِكُمْ حِينَ تَنَامُونَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الاستئذان، باب: لا تترك النار في البيت عند النوم، ح:٦٢٩٣ ومسلم، ح:٢٠١٥ من حديث سفيان بن عيينة به.

Chapter 16. What Has Been Related About It Being Disliked Two Take To Dates At Once

(المعجم ١٦) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْقِرَانِ بَيْنَ التَّمْرَتَيْنِ (التحفة ١٦)

1814. Ibn 'Umar narrated: "The Messenger of Allāh ﷺ prohibited taking two dates at a time until seeking permission from one's companion." (*Ṣaḥīḥ*)

[He said:] There is something on this topic from Sa'd the freed slave of Abū Bakr.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨١٤ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو أَحْمَدَ الزُّبَيْرِيُّ وعُبَيْدُ اللهِ عَنِ الثَّوْرِيِّ، عَنْ جَبَلَةَ بْنِ سُحَيْمٍ، عَنِ ابْنِ عُمَرَ قَالَ: نَهَى رَسُولُ اللهِ ﷺ أَنْ يُقْرَنَ بَيْنَ التَّمْرَتَيْنِ حَتَّى يَسْتَأْذِنَ صَاحِبَهُ.

[قَالَ:] وفِي الْبَابِ عَنْ سَعْدٍ مَوْلَى أَبِي بَكْرٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الشركة، باب القران في التمر بين الشركاء حتى يستأذن أصحابه، ح:٢٤٨٩ ومسلم، ح:٢٠٤٥ من حديث الثوري به * وفي الباب عن سعد مولى أبي بكر [ابن ماجه، ح:٣٣٣٢].

Comments:

If a person is eating in a group, he must observe the etiquettes necessary for the occasion. Thus, if everyone else is eating a single date at a time, it will be highly inappropriate for him to start eating the dates in twos without first seeking their permission. The idea is that, while eating, we must show consideration to the feelings and sensitivities of others.

Chapter 17. What Has Been Related About Recommending Dates

(المعجم ١٧) - بَابُ مَا جَاءَ فِي اسْتِحْبَابِ التَّمْرِ (التحفة ١٧)

1815. 'Āishah narrated that the Prophet ﷺ said: "A house without

١٨١٥ - حَدَّثَنَا مُحَمَّدُ بْنُ سَهْلِ بْنِ عَسْكَرٍ الْبَغْدَادِيُّ وعَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمٰنِ قَالَا:

dates, its inhabitants will be hungry." (*Sahīh*)

[He said:] There are narrations on this topic from Salmā the wife of Abū Rāfi'.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb* from this route. We do not know of it to be a narration of Hishām bin 'Urwah except through this route. [He said: I asked Al-Bukhārī about this *Hadīth* and he said: "I do not know of anyone who reported it other than Yahya bin Hassān."]

حَدَّثَنَا يَحْيَى بْنُ حَسَّانَ: حَدَّثَنَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «بَيْتٌ لَا تَمْرَ فِيهِ جِيَاعٌ أَهْلُهُ».

[قَالَ:] وفِي الْبَابِ عَنْ سلْمَىٰ امْرَأَةِ أَبِي رَافِعٍ.

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ لَا نَعْرِفُهُ مِنْ حَدِيثِ هِشَامِ بْنِ عُرْوَةَ إِلَّا مِنْ هٰذَا الْوَجْهِ. [قَالَ: وسَأَلْتُ الْبُخَارِيَّ عَنْ هٰذَا الحَدِيثِ فَقَالَ: لَا أَعْلَمُ أَحَدًا رَوَاهُ غَيْرَ يَحْيَى بْنِ حَسَّانَ].

تخريج: وأخرجه مسلم، الأشربة، باب: في إدخال التمر ونحوه من الأقوات للعيال، ح:٢٠٤٦ عن عبدالله بن عبدالرحمن الدارمي به وهذا في مسنده:٢/ ١٠٤، ح:٢٠٦٧ * وفي الباب عن سلمى امرأة أبي رافع [ابن ماجه، ح:٣٣٢٨].

Comments:

Dates being blessed, and the normal food of Arabs at those times, the people who had no dates in their houses were most likely to go hungry. The *Hadīth* also conforms that keeping an appropriate supply of food stuff at home is perfectly in order, and that dates are an extremely recommended item for the purpose.

Chapter 18. (What Has Been Related) About Praising Allāh For The Food When One Is Finished Eating From It

(المعجم ١٨) - بَابُ [مَا جَاءَ] فِي الْحَمْدِ عَلَى الطَّعَامِ إِذَا فُرِغَ مِنْهُ (التحفة ١٨)

1816. Anas bin Mālik narrated that the Prophet ﷺ said: "Indeed Allāh is pleased with the slave who, upon eating his food or drinking his drink, he praises Him for it." (*Sahīh*)

[He said:] There are narrations on this topic from 'Uqbah bin 'Āmir, Abū Sa'eed, 'Āishah, Abū Ayyūb, and Abū Hurairah.

[Abū 'Eīsā said:] This *Hadīth* is

١٨١٦ - حَدَّثَنَا هَنَّادٌ ومَحْمُودُ بْنُ غَيْلَانَ قَالَا: حَدَّثَنَا أَبُو أُسَامَةَ عَنْ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ، عَنْ سَعِيدِ بْنِ أَبِي بُرْدَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «إِنَّ اللهَ لَيَرْضَى عَنِ الْعَبْدِ أَنْ يَأْكُلَ الْأَكْلَةَ أَوْ يَشْرَبَ الشَّرْبَةَ فَيَحْمَدَهُ عَلَيْهَا».

[قَالَ:] وفِي الْبَابِ عَنْ عُقْبَةَ بْنِ عَامِرٍ وأَبِي سَعِيدٍ وعَائِشَةَ وأَبِي أَيُّوبَ وأَبِي هُرَيْرَةَ.

Hasan. More than one narrator has reported it from Zakariyyā bin Abī Zā'idah similarly, and we do not know of it except through the narration of Zakariyyā bin Abī Zā'idah.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ. وقَدْ رَوَاهُ غَيْرُ واحِدٍ عَنْ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ نَحْوَهُ، ولَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ زَكَرِيَّا بْنِ أَبِي زَائِدَةَ.

تخريج: وأخرجه مسلم، الذكر والدعاء، باب استحباب حمد الله تعالى بعد الأكل والشرب، ح: ٢٧٣٤ من حديث أبي أسامة به * وفي الباب عن عقبة بن عامر [لم أجده] وأبي سعيد [الترمذي في الشمائل، ح: ١٩٠] وعائشة [ابن السني في عمل اليوم والليلة، ح: ٤٨٨] وأبي أيوب [الترمذي في الشمائل، ح: ١٨٧] وأبي هريرة [النسائي في عمل اليوم والليلة، ح: ٣٠١ وابن حبان، ح: ١٣٥٢].

Comments:

Food and drink is a great gift of Allāh, and Allāh loves those who pay their thanks and gratitude to Him. And to the grateful He gives more. He Himself says: "If you give thanks, I shall certainly give you more." (14:7)

Chapter 19. What Has Been Related About Eating With A Leper

(المعجم ١٩) - بَابُ مَا جَاءَ فِي الأَكْلِ مَعَ الْمَجْذُومِ (التحفة ١٩)

1817. Jābir bin ['Abdullāh] narrated: "The Messenger of Allāh ﷺ took the hand of a leper and put it in the *Qaṣ'ah*. Then he said: 'Eat in Allāh's Name, trusting in Allāh and relying upon Him.'" **(*Ḍa'īf*)**

[Abū 'Eīsā said:] This is a *Gharīb Ḥadīth*, we do not know of it except through the report of Yūnus bin Muḥammad, from Al-Mufaḍḍal bin Faḍālah, a Shaikh from Al-Baṣrah. There is another Shaikh from Al-Baṣrah named Al-Mufaḍḍal bin Faḍālah, who is more reliable than this one and more popular. Shu'bah reported this *Ḥadīth* from Ḥabīb bin Ash-Shahīd, from Ibn Buraidah: "That Ibn 'Umar took the hand of a leper" and the narration of Shu'bah is

١٨١٧ - حَدَّثَنَا أَحْمَدُ بْنُ سَعِيدٍ الأَشْقَرُ وإِبْرَاهِيمُ بْنُ يَعْقُوبَ قَالَا: حَدَّثَنَا يُونُسُ بْنُ مُحَمَّدٍ: حَدَّثَنَا الْمُفَضَّلُ بْنُ فَضَالَةَ عَنْ حَبِيبِ ابْنِ الشَّهِيدِ، عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ، عَنْ جَابِرِ بْنِ [عَبْدِاللهِ]: أَنَّ رَسُولَ اللهِ ﷺ أَخَذَ بِيَدِ مَجْذُومٍ، فَأَدْخَلَهُ مَعَهُ فِي الْقَصْعَةِ، ثُمَّ قَالَ: «كُلْ بِسْمِ اللهِ ثِقَةً بِاللهِ وَتَوَكُّلًا عَلَيْهِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ يُونُسَ بْنِ مُحَمَّدٍ عَنِ الْمُفَضَّلِ بْنِ فَضَالَةَ هٰذَا شَيْخٌ بَصْرِيٌّ. والْمُفَضَّلُ بْنُ فَضَالَةَ شَيْخٌ آخَرُ بَصْرِيٌّ أَوْثَقُ مِنْ هٰذَا وأَشْهَرُ. وَ[قَدْ] رَوَى شُعْبَةُ هٰذَا الْحَدِيثَ عَنْ حَبِيبِ بْنِ الشَّهِيدِ، عَنِ ابْنِ بُرَيْدَةَ أَنَّ ابْنَ عُمَرَ أَخَذَ بِيَدِ مَجْذُومٍ. وحَدِيثُ

more appropriate to me and more correct.

شُعْبَةَ أَشْبَهُ عِنْدِي وَأَصَحُّ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الطب، باب: في الطيرة، ح:٣٩٢٥ وابن ماجه، ح:٣٥٤٢ من حديث يونس بن محمد به وصححه الحاكم: ٤/ ١٣٦، ١٣٧ والذهبي وحسنه العسقلاني والمنادي وضعفه العقيلي * المفضل بن فضالة بن أبي أمية القرشي، أبومالك البصري ضعيف كما في التقريب وغيره * حديث عبدالله بن عمر: لم أجده.

Comments:

The Originator and Controller of all things in the universe is Allāh. Nothing in the world can have any effect or efficacy without His bidding and permission.

Chapter 20. What Has Been Related About: The Believer Eats With One Intestine [And The Disbeliever Eats With Seven Intestines]

(المعجم ٢٠) - بَابُ مَا جَاءَ أَنَّ الْمُؤْمِنَ يَأْكُلُ فِي مِعًى وَاحِدٍ [وَالْكَافِرُ يَأْكُلُ فِي سَبْعَةِ أَمْعَاءٍ] (التحفة ٢٠)

1818. Ibn 'Umar narrated that the Prophet ﷺ said: "The disbeliever eats with seven intestines and the believer eats with one intestine." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

[He said:] There are narrations on this topic from Abū Hurairah, Abū Sa'eed, Abū Baṣrah Al-Ghifārī, Abū Mūsā, Jahjāh Al-Ghifārī, Maimūnah, and 'Abdullāh bin 'Amr.

١٨١٨ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا عُبَيْدُ اللهِ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «الْكَافِرُ يَأْكُلُ فِي سَبْعَةِ أَمْعَاءٍ وَالْمُؤْمِنُ يَأْكُلُ فِي مِعًى وَاحِدٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وأَبِي سَعِيدٍ وأَبِي بَصْرَةَ الْغِفَارِيِّ وأَبِي مُوسَى وَجَهْجَاهٍ الْغِفَارِيِّ ومَيْمُونَةَ وعَبْدِ اللهِ بْنِ عَمْرٍو.

تخريج: وأخرجه مسلم، الأشربة، باب المؤمن يأكل في معى واحد، والكافر يأكل في سبعة أمعاء، ح:٢٠٦٠ من حديث يحيى القطان به * وفي الباب عن أبي هريرة [يأتي:١٨١٩] وأبي سعيد [الدارمي، ح:٢٠٤٨] وأبي بَصْرَةَ الغفاري [أحمد:٦/ ٣٩٧] وأبي موسى [مسلم، ح:٢٠٦٢] وجهجاه الغفاري [الطبراني في الكبير:٢/ ٢٧٤، ح:٢١٥٢] وميمونة [أحمد:٦/ ٣٣٥] وعبدالله بن عمرو [فتح الباري:٩/ ٥٣٨ تحت، ح:٥٣٥٣ البزار في كشف الأستار:٣/ ٣٤١، ح:٢٨٩٤] وفيه عبدالله بن عمر، وصوابه عبدالله بن عمرو، وحديث عبدالله بن عمر: أخرجه ابن عدي في الكامل:٢/ ٨٥٥.

Comments:

The *Ḥadīth* means to emphasize the idea that for a disbeliever eating and drinking is the very aim and purpose of life, while a true believer leads a life of abstinence and contentment. Eating and drinking is not his main concern in life. Hence it is that a disbeliever eats to his fill while a believer eats just as much as he needs.

1819. Abū Hurairah narrated: "The Messenger of Allāh ﷺ had a disbeliever as a guest. So the Messenger of Allāh ﷺ ordered that a sheep be milked so he could drink. Then another was milked so he could drink, then another, so he drank until he had drank the milk of seven sheep. Then he awoke the next morning and accepted Islam. the Messenger of Allāh ﷺ ordered that a sheep be milked so he could drink its milk, then he ordered for another but he could not finish it. So the Messenger of Allāh ﷺ said: 'The believer drinks with one intestine and the disbeliever drinks with seven.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ṣaḥīḥ*] *Ḥāsan Gharīb* as a narration of Suhail.

١٨١٩ - **حَدَّثَنَا** إِسْحَاقُ بْنُ مُوسَى [الْأَنْصَارِيُّ]: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ عَنْ سُهَيْلِ بْنِ أَبِي صَالِحٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ: أَنَّ رَسُولَ اللهِ ﷺ ضَافَهُ ضَيْفٌ كَافِرٌ فَأَمَرَ لَهُ رَسُولُ اللهِ ﷺ بِشَاةٍ فَحُلِبَتْ فَشَرِبَ ثُمَّ أُخْرَى فَحُلِبَتْ فَشَرِبَهُ، ثُمَّ أُخْرَى فَشَرِبَهُ حَتَّى شَرِبَ حِلَابَ سَبْعِ شِيَاهٍ، ثُمَّ أَصْبَحَ مِنَ الْغَدِ فَأَسْلَمَ فَأَمَرَ لَهُ رَسُولُ اللهِ ﷺ بِشَاةٍ فَحُلِبَتْ فَشَرِبَ حِلَابَهَا، ثُمَّ أَمَرَ لَهُ بِأُخْرَى فَلَمْ يَسْتَتِمَّهَا، فَقَالَ رَسُولُ اللهِ ﷺ: «الْمُؤْمِنُ يَشْرَبُ فِي مِعًى وَاحِدٍ، وَالْكَافِرُ يَشْرَبُ فِي سَبْعَةِ أَمْعَاءٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [صَحِيحٌ] حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ سُهَيْلٍ.

تخريج: وأخرجه مسلم، الأشربة، باب المؤمن يأكل في معى واحد والكافر يأكل في سبعة أمعاء، ح:٢٠٦٣ من حديث مالك به وهو في الموطأ: ٢/ ٩٢٤.

Chapter 21. What Has Been Related About: Food For One Is Sufficient For Two

(المعجم ٢١) - بَابُ مَا جَاءَ فِي طَعَامِ الْوَاحِدِ يَكْفِي الْاثْنَيْنِ (التحفة ٢١)

1820. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "The food of two is sufficient for three, and the food of three is sufficient for four." (*Ṣaḥīḥ*)

He said: There are narrations on this topic from Jābir, and Ibn 'Umar.

١٨٢٠ - **حَدَّثَنَا** الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكٌ؛ ح: وحَدَّثَنَا قُتَيْبَةُ عَنْ مَالِكٍ، عَنْ أَبِي الزِّنَادِ، عَنِ الْأَعْرَجِ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «طَعَامُ الاثْنَيْنِ كَافِي الثَّلَاثَةِ، وطَعَامُ الثَّلَاثَةِ كَافِي الأَرْبَعَةِ».

Abū 'Eīsā said: This *Hadīth* is *Hasan Sahīh*.

It has been reported from Jābir bin 'Abdullāh and Ibn 'Umar that the Prophet ﷺ said: "The food of one is sufficient for two, and the food of two is sufficient for four, and the food of four is sufficient for eight."

(Another chain) from Jābir that the Prophet ﷺ said similarly.

قَالَ: وفِي الْبَابِ عَنْ جابِرٍ وابْنِ عُمَرَ.
قَالَ أَبُو عِيسَى: هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

وَرَوَى جَابِرٌ وابْنُ عُمَرَ عَنِ النَّبِيِّ ﷺ قَالَ: «طَعَامُ الوَاحِدِ يَكْفِي الاثْنَيْنِ وطَعَامُ الاثْنَيْنِ يَكْفِي الأَرْبَعَةَ، وطَعَامُ الأَرْبَعَةِ يَكْفِي الثَّمَانِيَةَ».

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ أبْنُ مَهْدِيٍّ عَنْ سُفْيَانَ، عَنِ الأَعْمَشِ، عَنْ أَبِي سُفْيَانَ، عَنْ جَابِرٍ عَنِ النَّبِيِّ ﷺ بِهٰذَا.

تخريج: متفق عليه، وأخرجه البخاري، الأطعمة، باب طعام الواحد يكفي الاثنين، ح:٥٣٩٢ ومسلم، ح:٢٠٥٨ من حديث مالك به وهو في الموطأ:٢/٩٢٨(يحيى) * وفي الباب عن ابن عمر [عبد بن حميد، ح:٧٨٨ وإسناده صحيح] وجابر [مسلم، ح:٢٠٥٩ من حديث الأعمش عن أبي سفيان عن جابر].

Comments:

The main idea to be deduced from the *Hadīth* is that there is blessing in collectivity. We should, therefore, try to eat together since, apart from other things, it would also promote a feeling of self-sacrifice. While eating together, we should try our best to make our companions eat well.

Chapter 22. What Has Been Related About Eating Locust

(المعجم ٢٢) - بَابُ مَا جَاءَ فِي أَكْلِ الْجَرَادِ (التحفة ٢٢)

1821. Abū Ya'fūr Al-'Abdī narrated that 'Abdullāh bin Abī Awfā was asked about locust. He said: "I participated in six military expeditions with the Messenger of Allāh ﷺ, (and) we ate locust." (*Sahīh*)

[Abū 'Eīsā said:] This is how Sufyān bin 'Uyainah reported this *Hadīth* from Abū Ya'fūr. He said: "Six military expeditions," while Sufyān Ath-Thawrī reported this *Hadīth* from Abū Ya'fūr, and he said: "Seven military expeditions."

١٨٢١ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي يَعْفُورٍ العَبْدِيِّ، عَنْ عَبْدِ اللهِ ابْنِ أَبِي أَوْفَى أَنَّهُ سُئِلَ عَنِ الْجَرَادِ فَقَالَ: غَزَوْتُ مَعَ النَّبِيِّ ﷺ سِتَّ غَزَوَاتٍ نَأْكُلُ الْجَرَادَ.

[قَالَ أَبُو عِيسَى:] هٰكَذَا رَوَى سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ أَبِي يَعْفُورٍ هٰذَا الْحَدِيثَ وقَالَ: سِتَّ غَزَاوتٍ. وَرَوَى سُفْيَانُ الثَّوْرِيُّ وغَيْرُ وَاحِدٍ هٰذَا الْحَدِيثَ عَنْ أَبِي يَعْفُورٍ فَقَالَ:

سَبْعَ غَزَوَاتٍ.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عُمَرَ وجَابِرٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو يَعْفُورٍ اسْمُهُ واقِدٌ ويُقَالُ: وقْدَانُ أَيْضًا. وأَبُو يَعْفُورٍ الآخَرُ اسْمُهُ عَبْدُ الرَّحْمٰنِ بْنُ عُبَيْدِ بْنِ نِسْطَاسَ.

[He said:] There are narrations on this topic from Ibn 'Umar and Jābir.

[He said:] This *Hadīth* is *Hasan Sahīh*. Abū Ya'fūr's name is Wāqid. They also call him Waqdān. There is another Abū Ya'fūr whose name is 'Abdur-Rahmān bin 'Ubaid bin Nistas.

تخريج: متفق عليه، وأخرجه مسلم، الصيد والذبائح، باب إباحة الجراد، ح:١٩٥٢ من حديث سفيان بن عيينة والبخاري، ح:٥٤٩٥ من حديث أبي يعفور به * وفي الباب عن ابن عمر [ابن ماجه، ح:٣٢١٨، ٣٣١٤] وجابر [أحمد:٣/ ٣٣٩].

Comments:

Scholars unanimously declare the eating of locust lawful. It is not necessary to slaughter it. Its catching is its slaughtering. Mālikī according to a famous tradition, are believed to hold the view that the cutting of the locusts heads is its slaughtering (*Tuhfat Al-Ahwadhī*, v.3, p.78). Something regarding locusts preceded in no. 850.

١٨٢٢ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو أَحْمَدَ والْمُؤَمَّلُ قَالَا: حَدَّثَنَا سُفْيَانُ عَنْ أَبِي يَعْفُورٍ، عَنِ ابْنِ أَبِي أَوْفَى قَالَ: غَزَوْنَا مَعَ رَسُولِ اللهِ ﷺ سَبْعَ غَزَوَاتٍ نَأْكُلُ الْجَرَادَ.

[قَالَ أَبُو عِيسَى:] ورَوَى شُعْبَةُ هٰذَا الْحَدِيثَ عَنْ أَبِي يَعْفُورٍ، عَنِ ابْنِ أَبِي أَوْفَى قَالَ: غَزَوْنَا مَعَ رَسُولِ اللهِ ﷺ غَزَوَاتٍ نَأْكُلُ الْجَرَادَ.

حَدَّثَنَا بِذٰلِكَ مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ بِهٰذَا.

1822. Abū Ya'fūr narrated that Ibn Abī Awfā said: "We participated in seven military expeditions with the Messenger of Allāh ﷺ, (and) we ate locust." (***Sahīh***)

[Abū 'Eīsā said:] Shu'bah reported this *Hadīth* from Abū Ya'fūr, from Ibn Abī Awfā and said: "We participated in military expeditions with the Messenger of Allāh ﷺ, (and) we ate locust."

This was narrated to us by Muhammad bin Bash-shār (who said): "Muhammad bin Ja'far narrated to us from Shu'bah."

تخريج: [**صحيح**] متفق عليه، انظر الحديث السابق * مسلم عن محمد بن بشار، والبخاري من حديث شعبة به.

Chapter 23. What Has Been Related About Supplicating Against Locusts

(المعجم ٢٣) - بَابُ [مَا جَاءَ فِي الدُّعَاءِ عَلَى الْجَرَادِ] (التحفة ٢٣)

[1823. At-Taimī narrated from Jābir bin 'Abdullāh and Anas bin Mālik who said: "When the Messenger of Allāh ﷺ supplicated against locusts he would say: 'O Allāh! Destroy the locusts, kill the large among him, and destroy the small, spoil his core, and cut off his rear. Take their mouths from our livelihood and our sustenance. Verily, You indeed listen to the supplication!' So a man said: 'O Messenger of Allāh! How is it that you supplicate against one of Allāh's armies that He cut off their rear?'" He said: "So the Messenger of Allāh ﷺ said: 'They are but scattered from a fish in the ocean.'" ***(Ḍa'īf)***

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*. We do not know of it except from this route. And Mūsā bin Muḥammad bin Ibrāhīm At-Taimī has been criticized. He narrates many *Gharīb* and *Munkar* narrations. His father Muḥammad bin Ibrāhīm is trustworthy, and he is from Al-Madīnah.

١٨٢٣ - [حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو النَّضْرِ هَاشِمُ بْنُ القَاسِمِ قَالَ: حَدَّثَنَا زِيادُ بْنُ عَبْدِاللهِ بْنِ عُلَاثَةَ عَنْ مُوسَى ابْنِ مُحَمَّدِ بْنِ إِبْرَاهِيمَ التَّيْمِيِّ، عَنِ أَبِيهِ، عَنْ جابِرِ بْنِ عَبْدِاللهِ وأَنَسِ بْنِ مالِكٍ قَالَ: كانَ رَسُولُ اللهِ ﷺ إذا دَعا عَلَى الجَرَادِ قَالَ: «اللَّهُمَّ أَهْلِكِ الْجَرَادَ اقْتُلْ كِبَارَهُ، وأَهْلِكْ صِغَارَهُ، وأَفْسِدْ بَيْضَهُ، واقْطَعْ دَابِرَهُ وخُذْ بِأَفْواهِهِمْ عَنْ مَعَاشِنَا وأَرْزَاقِنَا إِنَّكَ سَمِيعُ الدُّعاءِ قَالَ: فَقَالَ رَجُلٌ: يَا رَسُولَ اللهِ! كَيْفَ تَدْعُو عَلَى جُنْدٍ مِنْ أَجْنَادِ اللهِ بِقَطْعِ دابِرِهِ؟ قَالَ: فَقَالَ رَسُولُ اللهِ ﷺ: «إِنَّها نَثْرَةُ حُوتٍ فِي الْبَحْرِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ ومُوسَى بْنُ مُحَمَّدِ ابْنِ إِبْرَاهِيمَ التَّيْمِيِّ قَدْ تُكُلِّمَ فِيهِ وهُوَ كَثِيرُ الغَرَائِبِ والمَنَاكِيرِ وأَبُوهُ مُحَمَّدُ بْنُ إِبْرَاهِيمَ ثِقَةٌ وهُوَ مَدَنِيٌّ].

تخريج: [إسناده ضعيف جدًا] وأخرجه ابن ماجه، الصيد، باب صيد الحيتان والجراد، ح:٣٢٢١ من حديث أبي النضر به وضعفه البوصيري لضعف موسى بن إبراهيم * موسى بن إبراهيم منكر الحديث كما في التقريب وغيره.

Chapter 24. What Has Been Related About Consuming The Flesh Of The *Jallālah*[1] And Milking It

(المعجم ٢٤) - بَابُ مَا جَاءَ فِي أَكْلِ لُحُومِ الْجَلَّالَةِ وَأَلْبَانِهَا (التحفة ٢٤)

1824. Ibn 'Umar narrated: "The Prophet ﷺ prohibited eating the *Jallālah* and milking it." (***Hasan***)

[He said:] There is something on this topic from 'Abdullāh bin 'Abbās.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*.

Ath-Thawrī reported it from Ibn Abī Najīḥ, from Mujāhid, from the Prophet ﷺ in *Mursal* form.

١٨٢٤ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا عَبْدَةُ عَنْ مُحَمَّدِ بْنِ إِسْحَاقَ، عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ مُجَاهِدٍ، عَنِ ابْنِ عُمَرَ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ أَكْلِ الْجَلَّالَةِ وَأَلْبَانِهَا.

[قَالَ:] وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَرَوَى الثَّوْرِيُّ عَنِ ابْنِ أَبِي نَجِيحٍ، عَنْ مُجَاهِدٍ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

تخريج: [حسن] وأخرجه أبو داود، الأطعمة، باب النهي عن أكل الجلالة وألبانها، ح: ٣٧٨٥ من حديث عبدة به وسنده ضعيف وللحديث شواهد كثيرة انظر الحديث الآتي * وفي الباب عن عبدالله بن عباس (انظر الحديث الآتي: ١٨٢٥).

Comments:

People of the Opinion as well as Imām Ash-Shāfi'ī and Aḥmad suggest that such an animal be tied at one place for a few days and given clean food so that its meat becomes better.

1825. Ibn 'Abbās narrated: "The Prophet ﷺ prohibited the *Mujaththamah*, the milk of the *Jallālah*, and drinking from the spout of the water-skin." (***Sahīh***)

(Another chain) from Ibn 'Abbās, from the Prophet ﷺ, with similar meaning.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

There is something about this from 'Abdullāh bin 'Amr.

١٨٢٥ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُعَاذُ بْنُ هِشَامٍ: حَدَّثَنِي أَبِي عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْمُجَثَّمَةِ ولَبَنِ الْجَلَّالَةِ وعَنِ الشُّرْبِ مِنْ فِي السِّقَاءِ.

قالَ مُحَمَّدُ بْنُ بَشَّارٍ: [و]حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ سَعِيدِ بْنِ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ نَحْوَهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

[1] An animal that eats animal droppings. See *Tuḥfat Al-Aḥwadhī*.

وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو.

تخريج: [صحيح] وأخرجه أبو داود، الأشربة، باب الشراب من في السقاء، ح:٣٧١٩ من حديث قتادة والنسائي، ح:٤٤٥٣ من حديث هشام الدستوائي به وصححه ابن حبان، ح:١٣٦٣ والحاكم على شرط البخاري:٢/ ٣٤ ووافقه الذهبي وللحديث شواهد انظر، ح:١٧٩٥ * وفي الباب عن عبدالله بن عمرو [أبو داود، ح:٣٨١١].

Comments:

Mujath-thamah is an animal shot at and killed without slaughtering while tied to the stake. It is prohibited to eat its meat. See nos. 1473 - 1474.

Chapter 25. What Has Been Related About Eating Chicken

(المعجم ٢٥) - **بَابُ مَا جَاءَ فِي أَكْلِ الدَّجَاجِ** (التحفة ٢٥)

1826. Zahdam Al-Jarmī said: "I entered upon Abū Mūsā while he was eating chicken, and he said: 'Sit and eat, for indeed I saw the Messenger of Allāh ﷺ eating it.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth is Ḥasan*. This *Ḥadīth* has been reported through other routes from Zahdam, and we do not know of it except as a narration of Zahdam. (One of the narrators) Abū Al-'Awwām is 'Imrān Al-Qaṭṭān.

١٨٢٦ - حَدَّثَنَا زَيْدُ بْنُ أَخْزَمَ [الطَّائِيُّ]: حَدَّثَنَا أَبُو قُتَيْبَةَ عَنْ أَبِي الْعَوَّامِ، عَنْ قَتَادَةَ، عَنْ زَهْدَمٍ الْجَرْمِيِّ قَالَ: دَخَلْتُ عَلَى أَبِي مُوسَى وهُوَ يَأْكُلُ دَجَاجَةً فَقَالَ: ادْنُ فَكُلْ فَإِنِّي رَأَيْتُ رَسُولَ اللهِ ﷺ يَأْكُلُهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ، وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنْ زَهْدَمٍ ولَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ زَهْدَمٍ. وأَبُو الْعَوَّامِ هُوَ عِمْرَانُ الْقَطَّانُ.

تخريج: متفق عليه، وأخرجه البخاري، المغازي، باب قدوم الأشعريين أو أهل اليمن، ح:٤٣٨٥ ومسلم، ح:١٦٤٩ من حديث زهدم به.

Comments:

Imām Mālik and Ath-Thawrī consider it lawful to eat the meat of a chicken eating from a garbage dump. They only opposed it on account of natural abhorrence and aversion.

1827. Zahdam narrated from Abū Mūsā who said: "I saw the Messenger of Allāh ﷺ eating chicken meat." (*Ṣaḥīḥ*)

[He said:] The *Ḥadīth* has more statements than this. And this *Ḥadīth* is *Ḥasan Saḥīḥ*. Ayyūb As-Sakhtiyānī also reported this

١٨٢٧ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا وكِيعٌ عَنْ سُفْيَانَ، عَنْ أَيُّوبَ، عَنْ أَبِي قِلَابَةَ، عَنْ زَهْدَمٍ، عَنْ أَبِي مُوسَى قَالَ: رَأَيْتُ رَسُولَ اللهِ ﷺ يَأْكُلُ لَحْمَ دَجَاجٍ.

[قَالَ:] وفِي الْحَدِيثِ كَلَامٌ أَكْثَرُ مِنْ

Ḥadīth from Al-Qāsim At-Tamīmī, and, from Abū Qilābah, from Zahdam Al-Jarmī.

هٰذَا، [و]هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ وقَدْ رَوَى أَيُّوبُ السَّخْتِيَانِيُّ هٰذَا الحَدِيثَ أَيْضًا عَنِ القَاسِمِ التَّمِيمِيِّ وعَنْ أَبِي قِلَابَةَ، عَنْ زَهْدَمٍ الْجَرْمِيِّ.

تخريج: متفق عليه، وأخرجه البخاري، الذبائح والصيد، باب لحم الدجاج، ح:٥٥١٧ ومسلم، ح:١٦٤٩/٩ من حديث سفيان الثوري به.

Chapter 26. What Has Been Related About Eating Bustard[1]

(المعجم ٢٦) - **بَابُ مَا جَاءَ فِي أَكْلِ الْحُبَارَى** (التحفة ٢٦)

1828. Ibrāhīm bin 'Umar bin Safīnah, narrated from his father, from his grandfather that he said: "I ate bustard meat with the Messenger of Allāh ﷺ," (*Ḍa'īf*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except from this route. Ibn Abī Fudaik reported from Ibrāhīm bin 'Umar bin Safīnah and he has been called Buraih bin 'Umar bin Safīnah.

١٨٢٨ - حَدَّثَنَا الفَضْلُ بْنُ سَهْلٍ الْأَعْرَجُ البَغْدَادِيُّ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ عَبْدِ الرَّحْمٰنِ بْنِ مَهْدِيٍّ عَنْ إِبْرَاهِيمَ بْنِ عُمَرَ بْنِ سَفِينَةَ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ: أَكَلْتُ مَعَ رَسُولِ اللهِ ﷺ لَحْمَ حُبَارَى.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ. وإِبْرَاهِيمُ بْنُ عُمَرَ ابْنِ سَفِينَةَ رَوَى عَنْهُ ابْنُ أَبِي فُدَيْكٍ ويُقَالُ: بُرَيْهُ بْنُ عُمَرَ بْنِ سَفِينَةَ.

تخريج: **[إسناده ضعيف]** وأخرجه أبو داود، الأطعمة، باب: في أكل لحم الحبارى، ح:٣٧٩٧ عن الفضل بن سهل به ✽ إبراهيم بن عمر: وثقه ابن عدي وحده وضعفه العقيلي والذهبي وضعفه راجح.

Comments:

The Hubārā, in fact, means bustard, also called wader. It is a swift running wild bird of prey with a longish beak and a long neck and feet. Its meat tastes delicious.

Chapter 27. What Has Been Related About Eating Roasted Meat

(المعجم ٢٧) - **بَابُ مَا جَاءَ فِي أَكْلِ الشِّوَاءِ** (التحفة ٢٧)

1829. Umm Salamah narrated that she brought a side of roasted meat

١٨٢٩ - حَدَّثَنَا الْحَسَنُ بْنُ مُحَمَّدٍ

[1] A large heavily-bodied terrestrial game bird capable of swiftrunning and flight. See *Tuhfaht Al-Aḥwadhī*.

to the Messenger of Allāh ﷺ, so he ate from it and stood for *Ṣalāt*, and did not perform *Wuḍū'*. (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Abdullāh bin Al-Ḥārith, Al-Mughīrah and Abū Rāfi'.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route.

الزَّعْفَرَانِيُّ: حَدَّثَنَا حَجَّاجُ بْنُ مُحَمَّدٍ قَالَ: قَالَ ابْنُ جُرَيْجٍ: أَخْبَرَنِي مُحَمَّدُ بْنُ يُوسُفَ أَنَّ عَطَاءَ بْنَ يَسَارٍ أَخْبَرَهُ أَنَّ أُمَّ سَلَمَةَ أَخْبَرَتْهُ: أَنَّهَا قَرَّبَتْ إِلَى رَسُولِ اللهِ ﷺ جَنْبًا مَشْوِيًّا فَأَكَلَ مِنْهُ ثُمَّ قَامَ إِلَى الصَّلَاةِ وَمَا تَوَضَّأَ.

[قَالَ:] وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ الْحَارِثِ والمُغِيرَةِ وأَبِي رَافِعٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: [إسناده صحيح] وأخرجه أحمد: ٦/ ٣٠٧ من حديث ابن جريج به وللحديث طرق كثيرة جدًا * وفي الباب عن عبدالله بن الحارث بن جزء الزبيدي [الترمذي في الشمائل، ح: ١٦٤] والمغيرة [أيضا، ح: ١٦٥] وأبي رافع [مسلم، ح: ٣٥٧].

Comments:

Eating roasted meat is doubtless indicative of financial prosperity. But it does not mean that a man of piety cannot eat it. In fact, the Messenger of Allāh ﷺ is reported to have eaten roasted meat on several occasions. But a whole animal, was never roasted for him.

Chapter 28. What Has Been Related About It Being Disliked To Eat While Reclining[1]

(المعجم ٢٨) - **بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الأَكْلِ مُتَّكِئًا** (التحفة ٢٨)

1830. Abū Juḥaifah narrated that the Messenger of Allāh ﷺ said: "As for me, I do not eat while reclining." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Alī, 'Abdullāh bin 'Amr, and 'Abdullāh bin Al-'Abbās.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*, we do not know of it except as a narration of 'Alī bin Al-Aqmar.

١٨٣٠ - **حَدَّثَنَا** قُتَيْبَةُ: حَدَّثَنَا شَرِيكٌ عَنْ عَلِيِّ بْنِ الأَقْمَرِ، عَنْ أَبِي جُحَيْفَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «أَمَّا أَنَا فَلَا آكُلُ مُتَّكِئًا».

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ وعَبْدِ اللهِ بْنِ عَمْرٍو وعَبْدِ اللهِ بْنِ الْعَبَّاسِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَلِيِّ بْنِ الأَقْمَرِ.

[1] There is a great deal of disagreement over the description of this reclining. However, it is safer to avoid every form of reclining since the prohibition in this narration is inclusive. See *Tuḥfat Al-Aḥwadhī*.

Zakariyyā bin Abī Zā'idah, Sufyān bin Sa'eed, and others reported this *Hadīth* from 'Alī bin Al-Aqmar. And Shu'bah reported this *Hadīth* from Sufyān Ath-Thawrī from 'Alī bin Al-Aqmar.

وروَى زَكَرِيَّا بْنُ أَبِي زَائِدَةَ وسُفْيَانُ بْنُ سَعِيدٍ وغَيْرُ واحِدٍ عَنْ عَلِيِّ بْنِ الْأَقْمَرِ هٰذَا الْحَدِيثَ. ورَوَى شُعْبَةُ عَنْ سُفْيَانَ الثَّوْرِيِّ هٰذَا الْحَدِيثَ عَنْ عَلِيِّ بْنِ الْأَقْمَرِ.

تخريج: [**صحيح**] وأخرجه البخاري، الأطعمة، باب الأكل متكئًا، ح:٥٣٩٨، ٥٣٩٩ من حديث علي بن الأقمر به * وفي الباب عن علي [لم أجده] وعبدالله بن عمرو [أبو داود، ح:٣٧٧١ وابن ماجه، ح:٢٤٤] وعبدالله ابن عباس [النسائي في الكبرى:٤/ ١٧١، ح:٦٧٤٣] * حديث سفيان الثوري: أخرجه الترمذي في الشمائل، ح:١٣٢.

Chapter 29. What Has Been Related About: The Prophet ﷺ Liked Sweets And Honey

(المعجم ٢٩) - بَابُ مَا جَاءَ فِي حُبِّ النَّبِيِّ ﷺ الْحَلْوَاءَ وَالْعَسَلَ (التحفة ٢٩)

1831. 'Aishah said: "The Prophet ﷺ liked sweets and honey." (*Sahīh*)

This *Hadīth* is *Hasan Sahīh Gharīb*. 'Alī bin Mus-hir reported it from Hishām bin 'Urwah, and there is more stated in the *Hadīth* than this.

١٨٣١ - حَدَّثَنَا سَلَمَةُ بْنُ شَبِيبٍ ومَحْمُودُ ابْنُ غَيْلَانَ وأَحْمَدُ بْنُ إِبْرَاهِيمَ الدَّوْرَقِيُّ قَالُوا: حَدَّثَنَا أَبُو أُسَامَةَ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ قَالَتْ: كانَ النَّبِيُّ ﷺ يُحِبُّ الْحَلْوَاءَ والْعَسَلَ.

هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ، وقَدْ رَوَاهُ عَلِيُّ بْنُ مُسْهِرٍ عَنْ هِشَامِ بْنِ عُرْوَةَ. وفِي الحَدِيثِ كَلَامٌ أَكْثَرُ مِنْ هٰذَا.

تخريج: متفق عليه، وأخرجه البخاري، الأطعمة، باب الحلوى والعسل، ح:٥٤٣١ ومسلم، ح:١٤٧٤ من حديث أبي أسامة به.

Comments:

The Prophet ﷺ, being himself sweet-natured, liked sweets. Honey, wherein Allāh says that He has put healing, is also sweet. So, basically, it was honey that the Messenger of Allāh ﷺ liked, but he liked other sweet things as well.

Chapter 30. What Has Been Related About Increasing (The Water In) The Broth

(المعجم ٣٠) - بَابُ مَا جَاءَ فِي إِكْثَارِ [مَاءِ] الْمَرَقَةِ (التحفة ٣٠)

1832. 'Alqamah bin Al-Muzanī narrated from his father, who said that the Prophet ﷺ said: "When

١٨٣٢ - حَدَّثَنَا مُحَمَّدُ بْنُ عُمَرَ بْنِ عَلِيٍّ الْمُقَدَّمِيُّ: حَدَّثَنَا مُسْلِمُ بْنُ إِبْرَاهِيمَ: حَدَّثَنَا

one of you buys meat, then let him increase its broth. For, if he does not find any meat you'll have broth; and it is one of the two meats."[1] (*Ḍa'īf*)

And there are narrations on this topic from Abū Dharr.

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except through this route, as a narration of Muḥammad bin Faḍā', who is Muḥammad bin Faḍā' Al-Mu'abbar, and he has been criticized by Sulaimān bin Ḥarb. 'Alqamah bin 'Abdullāh is the brother of Bakr bin 'Abdullāh Al-Muzanī.

مُحَمَّدُ بْنُ فَضَاءٍ: حَدَّثَنِي أَبِي عَنْ عَلْقَمَةَ بْنِ عَبْدِ اللهِ الْمُزَنِيِّ، عَنْ أَبِيهِ قَالَ: قَالَ النَّبِيُّ ﷺ: «إِذَا اشْتَرَى أَحَدُكُمْ لَحْمًا فَلْيُكْثِرْ مَرَقَتَهُ، فَإِنْ لَمْ يَجِدْ لَحْمًا أَصَابَ مَرَقَةً وَهُوَ أَحَدُ اللَّحْمَيْنِ».

وفِي الْبَابِ عَنْ أَبِي ذَرٍّ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ مِنْ حَدِيثِ مُحَمَّدِ ابْنِ فَضَاءٍ. ومُحَمَّدُ بْنُ فَضَاءٍ هُوَ الْمُعَبِّرُ، وقَدْ تَكَلَّمَ فِيهِ سُلَيْمَانُ بْنُ حَرْبٍ. وعَلْقَمَةُ بْنُ عَبْدِاللهِ هُوَ أَخُو بَكْرِ بْنِ عَبْدِ اللهِ الْمُزَنِيِّ.

تخريج: **[إسناده ضعيف]** وأخرجه الحاكم: ٤/ ١٣٠ من حديث مسلم بن إبراهيم به وصححه الحاكم فتعقبه الذهبي بقوله: "محمد ضعفه ابن معين" * محمد بن فضاء: ضعيف، وأبوه: مجهول كما في التقريب وغيره * وفي الباب عن أبي ذر [يأتي: ١٨٣٣].

Comments:

Meat is a delicious and much liked item of food. Increased quantity of broth could serve more people. It can also be offered to the neighbors. Broth, moreover, has all the taste and pleasing quality of the meat absorbed into it.

1833. Abū Dharr narrated that the Messenger of Allāh ﷺ said: "Let one of you not consider any good to be insignificant. If he has nothing, then let him meet his brother with a smiling face. If you buy some meat or cook something in a pot, then increase its broth, and serve some of it to your neighbor." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Shu'bah reported it from Abū 'Imrān Al-Jawnī.

١٨٣٣ - **حَدَّثَنَا** الْحُسَيْنُ بْنُ عَلِيِّ بْنِ الْأَسْوَدِ الْبَغْدَادِيُّ: حَدَّثَنَا عَمْرُو بْنُ مُحَمَّدٍ الْعَنْقَزِيُّ: حَدَّثَنَا إِسْرَائِيلُ عَنْ صَالِحِ بْنِ رُسْتُمَ أَبِي عَامِرٍ الْخَزَّازِ، عَنْ أَبِي عِمْرَانَ الْجَوْنِيِّ، عَنْ عَبْدِ اللهِ بْنِ الصَّامِتِ، عَنْ أَبِي ذَرٍّ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا يَحْقِرَنَّ أَحَدُكُمْ شَيْئًا مِنَ الْمَعْرُوفِ، وإِنْ لَمْ يَجِدْ فَلْيَلْقَ أَخَاهُ بِوَجْهٍ طَلِيقٍ، وإِنِ اشْتَرَيْتَ لَحْمًا أَوْ طَبَخْتَ قِدْرًا فَأَكْثِرْ مَرَقَتَهُ واغْرِفْ لِجَارِكَ مِنْهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ

[1] Because of the nutrients it contains from the meat. See *Tuhfat Al-Ahwadhī*.

صَحِيحٌ. وقَدْ رَوَى شُعْبَةُ عَنْ أَبِي عِمْرَانَ الْجَوْنِيِّ.

تخريج: [**صحيح**] وأخرجه مسلم، ح:٢٦٢٦ مختصرًا وابن ماجه، ح:٣٣٦٢ من حديث صالح بن رستم به.

Comments:

While cooking some delicious food one must also be mindful of his neighbor. It is especially important because the aroma of the food might even reach his house and he might feel enticed by it. That is why some of the preparation should be sent to him.

Chapter 31. What Has Been Related About The Virtue Of *Tharīd*

(المعجم ٣١) - بَابُ مَا جَاءَ فِي فَضْلِ الثَّرِيدِ (التحفة ٣١)

1834. Abū Mūsā narrated that the Prophet ﷺ said: "Many a man achieved perfection, but no woman achieved perfection except for Mariam the daughter of 'Imrān, and Āsiyah the wife of Fir'awn. And the superiority of 'Āishah over other women is like the superiority of *Tharīd* over other foods." (*Ṣaḥīḥ*)

[He said:] There is something on this topic from 'Āishah and Anas.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٣٤ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنْ عَمْرِو بْنِ مُرَّةَ الْهَمْدَانِيِّ، عَنْ أَبِي مُوسَى عَنِ النَّبِيِّ ﷺ قَالَ: «كَمُلَ مِنَ الرِّجَالِ كَثِيرٌ وَلَمْ يَكْمُلْ مِنَ النِّسَاءِ إِلَّا مَرْيَمُ ابْنَةُ عِمْرَانَ وآسِيَةُ امْرَأَةُ فِرْعَوْنَ، وفَضْلُ عَائِشَةَ عَلَى النِّسَاءِ كَفَضْلِ الثَّرِيدِ عَلَى سَائِرِ الطَّعَامِ».

[قَالَ:] وفِي الْبَابِ عَنْ عَائِشَةَ وَأَنَسٍ.

[**قَالَ أَبُو عِيسَى:**] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، فضائل الصحابة، باب: من فضائل خديجة أم المؤمنين رضي الله عنها، ح:٢٤٣١ عن محمد بن المثنى والبخاري، ح:٥٤١٨ من حديث شعبة به * وفي الباب عن عائشة [يأتي في تخريج حديث:٣٨٨٧] وأنس [يأتي:٣٨٨٧].

Comments:

Loaves of bread, if soaked into a well-cooked broth, become extremely delicious, palatable and digestible. This preparation is known as *Tharīd*. As regards its good taste, its easy preparability and digestibility it is superior to all other foods. Similarly, with regard to the vastness of her knowledge and education, 'Āishah ؓ was superior to all other women of her time.

Chapter 32. (That He Said:) Tear The Meat (With Your Teeth)

(المعجم ٣٢) - بَابُ مَا جَاءَ [أَنَّهُ قَالَ]: انْهَسُوا اللَّحْمَ نَهْسًا (التحفة ٣٢)

1835. 'Abdullāh bin Al-Ḥārith said: "My father had me married so he invited people, and Ṣafwān bin Umayyah was among them. So he said: 'Indeed the Messenger of Allāh ﷺ said: 'Bite the meat (with your teeth) for indeed it is more enjoyable and more wholesome.''' (*Ḍa'īf*)

[He said:] There are narrations on this topic from 'Āishah and Abū Hurairah.

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* except through the narration of 'Abdul-Karīm. Some of the people of knowledge have criticized 'Abdul-Karīm Al-Mu'allim because of his memory, Ayyūb As-Sakhtiyanī was among them.

١٨٣٥ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ الكَرِيمِ أَبِي أُمَيَّةَ، عَنْ عَبْدِ اللهِ بْنِ الحَارِثِ قَالَ: زَوَّجَنِي أَبِي فَدَعَا أُنَاسًا فِيهِمْ صَفْوَانُ بْنُ أُمَيَّةَ فَقَالَ: إِنَّ رَسُولَ اللهِ ﷺ قَالَ: «انْهَسُوا اللَّحْمَ نَهْسًا فَإِنَّهُ أَهْنَأُ وَأَمْرَأُ».

[قَالَ:] وفِي الْبَابِ عَنْ عَائِشَةَ وأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] وهٰذَا حَدِيثٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبْدِ الكَرِيمِ. وقَدْ تَكَلَّمَ بَعْضُ أَهْلِ الْعِلْمِ فِي عَبْدِ الكَرِيمِ المُعَلِّمِ مِنْ قِبَلِ حِفْظِهِ مِنْهُمْ أَيُّوبُ السَّخْتِيَانِيُّ.

تخريج: [إسناده ضعيف] وأخرجه أحمد: ٣/ ٤٠٠ عن سفيان بن عيينة به وحسنه الحافظ في الفتح وللحديث شواهد كلها ضعيفة، راجع مسند الحميدي بتحقيقي، ح: ٥٦٤ * عبد الكريم أبو أمية: ضعيف كما في التهذيب وغيره * وفي الباب عن عائشة [أبو داود، ح: ٣٧٧٨] وأبي هريرة [يأتي: ١٨٣٧].

Comments:

Nahasa or *Nahasha* in Arabic means: to bite; to grab with teeth; to tear to pieces. In the context of meat, it means to bite it so that it becomes easy to digest.

Chapter 33. What Has Been Related From The Prophet ﷺ Permitting One To Cut Meat With A Knife

(المعجم ٣٣) - بَابُ مَا جَاءَ عَنِ النَّبِيِّ ﷺ مِنَ الرُّخْصَةِ فِي قَطْعِ اللَّحْمِ بِالسِّكِّينِ (التحفة ٣٣)

1836. Ja'far bin 'Amr bin Umayyah Aḍ-Ḍamrī narrated from his father who said that he saw the Prophet ﷺ making incisions (with

١٨٣٦ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: حَدَّثَنَا مَعْمَرٌ عَنِ الزُّهْرِيِّ، عَنْ جَعْفَرِ بْنِ عَمْرِو بْنِ أُمَيَّةَ الضَّمْرِيِّ، عَنْ أَبِيهِ:

أَنَّهُ رَأَى النَّبِيَّ ﷺ احْتَزَّ مِنْ كَتِفِ شَاةٍ فَأَكَلَ مِنْهَا ثُمَّ مَضَى إِلَى الصَّلَاةِ وَلَمْ يَتَوَضَّأْ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وفِي الْبَابِ عَنِ الْمُغِيرَةِ بْنِ شُعْبَةَ.

a knife) into a piece of a lamb shoulder which he ate from, then he went to perform *Ṣalāt* without performing *Wuḍū'*. (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ* and there is something on this topic from Al-Mughīrah bin Shu'bah.

تخريج: متفق عليه، وأخرجه البخاري، الأطعمة، باب شاة مسموطة والكتف والجنب، ح:٥٤٢٢ من حديث معمر ومسلم، ح:٣٥٥ من حديث الزهري به * وفي الباب عن المغيرة بن شعبة [الترمذي في الشمائل، ح:١٦٥ وأبو داود، ح:١٨٨].

Comments:

There is no harm in cutting the big piece of meat with a knife, then putting it into the mouth with the hand.

(المعجم ٣٤) - بَابُ مَا جَاءَ فِي أَيِّ اللَّحْمِ كَانَ أَحَبَّ إِلَى رَسُولِ اللهِ ﷺ (التحفة ٣٤)

Chapter 34. What Has Been Related About Which Meat The Messenger Of Allāh ﷺ Used To Like Most

١٨٣٧ - حَدَّثَنَا وَاصِلُ بْنُ عَبْدِ الْأَعْلَى: حَدَّثَنَا مُحَمَّدُ بْنُ الْفُضَيْلِ عَنْ أَبِي حَيَّانَ التَّيْمِيِّ، عَنْ أَبِي زُرْعَةَ بْنِ عَمْرِو بْنِ جَرِيرٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: أُتِيَ النَّبِيُّ ﷺ بِلَحْمٍ فَدُفِعَ إِلَيْهِ الذِّرَاعُ، وَكَانَ يُعْجِبُهُ، فَنَهَسَ مِنْهَا.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وعَائِشَةَ وَعَبْدِ اللهِ بْنِ جَعْفَرٍ وأَبِي عُبَيْدَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو حَيَّانَ اسْمُهُ يَحْيَى بْنُ سَعِيدِ بْنِ حَيَّانَ التَّيْمِيُّ. وأَبُو زُرْعَةَ بْنُ عَمْرِو بْنِ جَرِيرٍ اسْمُهُ هَرِمٌ.

1837. Abū Hurairah narrated: "Some meat was brought to the Prophet ﷺ and a foreleg was presented to him, and he used to like it, so he bit from it." (***Ṣaḥīḥ***)

[He said:] There are narrations on tis topic from Ibn Mas'ūd, 'Āishah, 'Abdullāh bin Ja'far, and Abū 'Ubaidah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Abū Ḥayyān's (a narrator in the chain) name is Yaḥya bin Sa'eed bin Ḥayyān At-Taimī. Abū Zur'ah bin 'Amr bin Jarīr's name is Harim.

تخريج: متفق عليه، وأخرجه البخاري، التفسير، باب: ﴿ذرية من حملنا مع نوح إنه كان عبدًا شكورًا﴾ ح:٤٧١٢ ومسلم، ح:١٩٤ من حديث أبي حيان التيمي به * وفي الباب عن عبدالله ابن مسعود [الترمذي في الشمائل، ح:١٦٧] وعائشة [يأتي:١٨٣٨] وعبدالله بن جعفر [الترمذي في الشمائل، ح:١٧٠] وأبي عبيدة [أيضًا، ح:١٦٨].

1838. 'Āishah narrated: "The foreleg was not the part of the meat that the Messenger of Allāh ﷺ liked most, but he would not get meat but occasionally. So it would be hastened to him because it cooks quickly." (***Da'īf***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan* [*Gharīb*], we do not know of it except from this route.

١٨٣٨ - حَدَّثَنَا الْحَسَنُ بْنُ مُحَمَّدٍ الزَّعْفَرَانِيُّ: حَدَّثَنَا يَحْيَى بْنُ عَبَّادٍ أَبُو عَبَّادٍ: حَدَّثَنَا فُلَيْحُ بْنُ سُلَيْمَانَ عَنْ عَبْدِ الْوَهَّابِ بْنِ يَحْيَى مِنْ وَلَدِ عَبَّادِ بْنِ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنْ عَبْدِ اللهِ بْنِ الزُّبَيْرِ، عَنْ عَائِشَةَ قَالَتْ: ما كانَ الذِّرَاعُ أَحَبَّ اللَّحْمِ إِلَى رَسُولِ اللهِ ﷺ ولَكِنْ كانَ لَا يَجِدُ اللَّحْمَ إِلَّا غِبًّا، فَكَانَ يَعْجَلُ إِلَيْهِ لِأَنَّهُ أَعْجَلُهَا نُضْجًا.

[قَالَ أَبُو عِيسَى] هٰذَا حَدِيثٌ حَسَنٌ [غَرِيبٌ] لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الْوَجْهِ.

تخريج: [**إسناده ضعيف**] * عبدالوهاب بن يحيى: في سماعه من جده نظر، انظر تهذيب التهذيب وغيره.

Comments:

a. *Ghibban* mentioned in the *Hadīth* means: at intervals; occasionally.

b. The foreleg is soft and easy to eat and cooks sooner than most other parts.

Chapter 35. What Has Been Related About Vinegar

(المعجم ٣٥) - **بَابُ مَا جَاءَ فِي الْخَلِّ**
(التحفة ٣٥)

1839. Jābir narrated that the Prophet ﷺ said: "What an excellent condiment vinegar is." (***Sahīh***)

١٨٣٩ - حَدَّثَنَا الْحَسَنُ بْنُ عَرَفَةَ: حَدَّثَنَا مُبَارَكُ بْنُ سَعِيدٍ - هُوَ أَخُو سُفْيَانَ بْنِ سَعِيدٍ الثَّوْرِيِّ - عَنْ سُفْيَانَ، عَنْ أَبِي الزُّبَيْرِ، عَنْ جَابِرٍ عَنِ النَّبِيِّ ﷺ قَالَ: «نِعْمَ الْإِدَامُ الْخَلُّ».

تخريج: [**صحيح**] وأخرجه مسلم، الأشربة، باب فضيلة الخل والتأدم به، ح:٢٠٥٢ من طريق آخر عن جابر بن عبدالله الأنصاري به.

Comments:

a. *Idām's* plural form (*Udum*) also behaves like the singular.

b. Vinegar was in common use among the Arabs, and they ate it with bread. There was a time in our part of the world as well when people used to eat bread with brown sugar, onion or pepper quite heartily.

1840. 'Āishah narrated that the Messenger of Allāh ﷺ said: "What an excellent condiment vinegar is."

(Another chain) with similar except that he ﷺ said: "What an excellent condiment, or, (the most excellent of) condiments is vinegar." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* from this route. It is not known as a *Ḥadīth* of Hishām bin 'Urwah except through the narration of Sulaimān bin Bilāl.

١٨٤٠ - **حَدَّثَنَا** مُحَمَّدُ بْنُ سَهْلِ بْنِ عَسْكَرٍ الْبَغْدَادِيُّ: حَدَّثَنَا يَحْيَى بْنُ حَسَّانَ: حَدَّثَنَا سُلَيْمَانُ بْنُ بِلَالٍ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «نِعْمَ الإِدَامُ الْخَلُّ».

حَدَّثَنَا عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمٰنِ: حَدَّثَنَا يَحْيَىَ بْنُ حَسَّانَ عَنْ سُلَيْمَانَ بْنِ بِلَالٍ بِهٰذَا الإِسْنَادِ نَحْوَهُ إِلَّا أَنَّهُ قَالَ: «نِعْمَ الإِدَامُ أَوِ الأُدْمُ الْخَلُّ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ هٰذَا الوَجْهِ لَا يُعْرَفُ مِنْ حَدِيثِ هِشَامِ بْنِ عُرْوَةَ إِلَّا مِنْ حَدِيثِ سُلَيْمَانَ بْنِ بِلَالٍ.

تخريج: وأخرجه مسلم، الأشربة، باب فضيلة الخل والتأدم به، ح:٢٠٥١ من حديث يحيى ابن حسان به.

1841. Umm Hāni' bint Abī Ṭālib narrated: "The Messenger of Allāh ﷺ entered upon me and said: 'Do you have anything?' I said: 'No, except for a piece of hard bread and vinegar.' So he said: 'Bring it, for a house that has vinegar is not impoverished of condiments.'" (*Ḥasan*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb* from this route. We do not know of it as a *Ḥadīth* of Umm Hāni' except through this route. [Abū Ḥamzah Ath-Thumālī's (a narrator in the chain) name is Thābit bin Abī Ṣafiyyah.] And Umm Hāni' died some time after 'Alī bin Abī Ṭalib. [I asked Muḥammad about this *Ḥadīth*. He

١٨٤١ - **حَدَّثَنَا** أَبُو كُرَيْبٍ [مُحَمَّدُ بْنُ الْعَلَاءِ]: حَدَّثَنَا أَبُو بَكْرِ بْنُ عَيَّاشٍ عَنْ أَبِي حَمْزَةَ الثُّمَالِيِّ، عَنِ الشَّعْبِيِّ، عَنْ أُمِّ هَانِىءٍ بِنْتِ أَبِي طَالِبٍ قَالَتْ: دَخَلَ عَلَيَّ رَسُولُ اللهِ ﷺ فَقَالَ: «هَلْ عِنْدَكُمْ شَيْءٌ؟» فَقُلْتُ: لَا، إِلَّا كِسَرٌ يَابِسَةٌ وَخَلٌّ، فَقَالَ النَّبِيُّ ﷺ: «قَرِّبِيهِ، فَمَا أَقْفَرَ بَيْتٌ مِنْ أُدْمٍ فِيهِ خَلٌّ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ لَا نَعْرِفُهُ مِنْ حَدِيثِ أُمِّ هَانِىءٍ إِلَّا مِنْ هٰذَا الْوَجْهِ. [وَأَبُو حَمْزَةَ الثُّمَالِيُّ اسْمُهُ ثابِتُ بْنُ أَبِي صَفِيَّةَ] وأُمُّ هانِىءٍ مَاتَتْ بَعْدَ عَلِيِّ بْنِ أَبِي طَالِبٍ بِزَمَانٍ.

[وسَأَلْتُ مُحَمَّدًا عَنْ هٰذَا الْحَدِيثِ قَالَ: لَا أَعْرِفُ لِلشَّعْبِيِّ سَمَاعًا مِنْ أُمِّ هانِيءٍ فَقُلْتُ: أَبُو حَمْزَةَ كَيْفَ هُوَ عِنْدَكَ؟ فَقَالَ: أَحْمَدُ بْنُ حَنْبَلٍ تَكَلَّمَ فِيهِ وهُوَ عِنْدي مُقَارِبُ الحَدِيثِ].

said: "I do not know of Ash-Sha'bī hearing from Umm Hānī'." So I said: "How is Abū Ḥamzah according to you?" He said: "Aḥmad bin Ḥanbal criticized him, but he is *Muqārib* (average) in *Ḥadīth* to me."]

تخريج: [حسن] وأخرجه الطبراني في الكبير: ٢٤/ ٤٣٧، ح: ١٠٦٨ من حديث أبي كريب به وسنده ضعيف وله طريق آخر عند الحاكم: ٤/ ٥٤ وغيره وللحديث شاهدان تقدما.

Comments:

The first of the four *Aḥādīth* (*Ḥadīth* 1839) is from Mubārak bin Sa'eed wherein Sufyān's teacher is Abu Az-Zubair. In *Ḥadīth* 1842, however, his teacher is Muhārib bin Dithār.

١٨٤٢ - حَدَّثَنَا عَبْدَةُ بْنُ عَبْدِاللهِ الخُزَاعِيُّ البَصْرِيُّ قَالَ: حَدَّثَنَا مُعَاوِيَةُ بْنُ هِشَامٍ عَنْ سُفْيَانَ، عَنْ مُحَارِبِ بْنِ دِثَارٍ، عَنْ جَابِرٍ عَنِ النَّبِيِّ ﷺ قَالَ: «نِعْمَ الْإِدَامُ الخَلُّ» وفِي الْبَابِ عَنْ عائِشَةَ وأُمِّ هَانِيءٍ. وهٰذَا أَصَحُّ مِنْ حَدِيثِ مُبَارَكِ بْنِ سَعِيدٍ.

1842. Jābir narrated that the Prophet ﷺ said: "What an excellent condiment vinegar is." (*Ṣaḥīḥ*)

There are narrations on this topic from 'Āishah and Umm Hānī', and this is more correct than the narration of Mubārak bin Sa'eed (no. 1839).

تخريج: [صحيح] وأخرجه أبو داود، الأطعمة، باب: في الخل، ح: ٣٨٢٠ من حديث معاوية بن هشام به ورواه ابن ماجه، ح: ٣٣١٧ من حديث محارب بن دثار به وهو حديث صحيح بالشواهد * وفي الباب عن عائشة [تقدم: ١٨٤٠] وأم هانئ [تقدم: ١٨٤١].

(المعجم ٣٦) - بَابُ مَا جَاءَ فِي أَكْلِ الْبِطِّيخِ بِالرُّطَبِ (التحفة ٣٦)

Chapter 36. What Has Been Related About Eating Melon With Fresh Dates

١٨٤٣ - حَدَّثَنَا عَبْدَةُ بْنُ عَبْدِ اللهِ الْخُزَاعِيُّ: حَدَّثَنَا مُعَاوِيَةُ بْنُ هِشَامٍ عَنْ سُفْيَانَ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ أَنَّ النَّبِيَّ ﷺ كانَ يَأْكُلُ الْبِطِّيخَ بِالرُّطَبِ.

[قَالَ:] وفِي الْبَابِ عَنْ أَنَسٍ.

1843. 'Āishah narrated: "The Prophet ﷺ would eat melon with fresh dates." (*Ṣaḥīḥ*)

[He said:] There is something about this from Anas.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*. Some of them reported it from Hishām bin 'Urwah from his father in *Mursal*

form from the Prophet ﷺ, without mentioning "from 'Āishah" in it. And Yazīd bin Rūmān reported this *Hadīth* from 'Urwah, from 'Āishah.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ. وَرَوَاهُ بَعْضُهُمْ عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ مُرسَلٌ ولَمْ يَذْكُرْ فِيهِ، عَنْ عَائِشَةَ. وقَدْ رَوَى يَزِيدُ بْنُ رُومَانَ عَنْ عُرْوَةَ، عَنْ عائِشَةَ هٰذَا الحَدِيثَ.

تخريج: [صحيح] وأخرجه أبو داود، الأطعمة، باب: في الجمع بين اللونين، ح:٣٨٣٦ وغيره من طرق عن هشام به راجع مسند الحميدي، ح:٢٥٦ (بتحقيقي) * وفي الباب عن أنس [الحاكم:٤/ ١٢٠، ١٢١].

Comments:

According to Eastern traditional medicine, property-wise, watermelon and different varieties of cucumber are cool while fresh dates are hot. Mixing the hot with cold would make anything temperate in nature.

Chapter 37. What Has Been Related About Eating Snake Cucumber With Fresh Dates

(المعجم ٣٧) - بَابُ مَا جَاءَ فِي أَكْلِ الْقِثَّاءِ بِالرُّطَبِ (التحفة ٣٧)

1844. 'Abdullāh bin Ja'far said: "The Messenger of Allāh ﷺ would eat snake cucumber with fresh dates." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh Gharīb*, we do not know of it except as a narration of Ibrāhīm bin Sa'd.

١٨٤٤ - حَدَّثَنَا إِسْمَاعِيلُ بْنُ مُوسَى الفَزَارِيُّ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ سَعْدٍ عَنْ أَبِيهِ، عَنْ عَبْدِ اللهِ بْنِ جَعْفَرٍ قَالَ: كانَ النَّبِيُّ ﷺ يَأْكُلُ القِثَّاءَ بِالرُّطَبِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ، لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ إِبْرَاهِيمَ بْنِ سَعْدٍ.

تخريج: متفق عليه، وأخرجه البخاري، الأطعمة، باب القثاء بالرطب، ح:٥٤٤٠ ومسلم، ح:٢٠٤٣ من حديث إبراهيم بن سعد به.

Chapter 38. What Has Been Related About Drinking Camel Urine

(المعجم ٣٨) - بَابُ مَا جَاءَ فِي شُرْبِ أَبْوَالِ الْإِبِلِ (التحفة ٣٨)

1845. Anas narrated: "Some people from 'Urainah arrived in Al-Madīnah, and they were uncomfortable (with the climate). So the Messenger of Allāh ﷺ sent

١٨٤٥ - حَدَّثَنَا الْحَسَنُ بْنُ مُحَمَّدٍ الزَّعْفَرَانِيُّ: حَدَّثَنَا عَفَّانُ: حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ: أَخْبَرَنَا حُمَيْدٌ وثَابِتٌ وَقَتَادَةُ عَنْ أَنَسٍ:

أَنَّ نَاسًا مِنْ عُرَيْنَةَ قَدِمُوا المَدِينَةَ فاجْتَوَوْهَا، فَبَعَثَهُمُ النَّبِيُّ ﷺ فِي إِبِلِ الصَّدَقَةِ وَقَالَ: «اشْرَبُوا مِنْ أَلْبَانِهَا وَأَبْوَالِها».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ ثَابِتٍ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنْ أَنَسٍ، رَوَاهُ أَبُو قِلَابَةَ عَنْ أَنَسٍ وَرَوَاهُ سَعِيدُ بْنُ أَبِي عَرُوبَةَ، عَنْ قَتَادَةَ، عَنْ أَنَسٍ.

them some camels from charity. He told them: "Drink from their milk and urine." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* as a narration of Thābit. This *Ḥadīth* has been reported through other routes from Anas. Abū Qilābah reported it from Anas, and Sa'eed bin Abī 'Arūbah reported it from Qatādah, from Anas.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الحدود، باب ما جاء في المحاربة، ح:٤٣٦٧ والنسائي، ح:٤٠٣٩ من حديث حماد بن سلمة به وسيأتي:٢٠٤٢ ورواه البخاري، ح:٥٧٢٧ من حديث قتادة ومسلم، ح:١٦٧١ من حديث حميد به وللحديث طرق كثيرة.

Comments:

The *Ḥadīth* has already been mentioned in detail in the Book Of Purification, Chapter 55, no.72.

Chapter 39. (What Has Been Related) About *Wuḍū'* Before Meals And Afterwards

(المعجم ٣٩) - بَابُ [مَا جَاءَ] فِي الْوُضُوءِ قَبْلَ الطَّعَامِ وَبَعْدَهُ (التحفة ٣٩)

١٨٤٦ - حَدَّثَنَا يَحْيَى بْنُ مُوسَى: حَدَّثَنَا عَبْدُاللهِ بْنُ نُمَيْرٍ: حَدَّثَنَا قَيْسُ بْنُ الرَّبِيعِ؛ ح: وَحَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا عَبْدُ الْكَرِيمِ الْجُرْجَانِيُّ عَنْ قَيْسِ بْنِ الرَّبِيعِ، المَعْنَى وَاحِدٌ، عَنْ أَبِي هَاشِمٍ [يَعْنِي الرُّمَّانِيَّ]، عَنْ زَاذَانَ، عَنْ سَلْمَانَ قَالَ: قَرَأْتُ فِي التَّوْرَاةِ أَنَّ بَرَكَةَ الطَّعَامِ الْوُضُوءُ بَعْدَهُ، فَذَكَرْتُ ذٰلِكَ لِلنَّبِيِّ ﷺ فَأَخْبَرْتُهُ بِمَا قَرَأْتُ فِي التَّوْرَاةِ، فَقَالَ رَسُولُ اللهِ ﷺ: «بَرَكَةُ الطَّعَامِ الْوُضُوءُ قَبْلَهُ والْوُضُوءُ بَعْدَهُ».

قَالَ: وفِي الْبَابِ عَنْ أَنَسٍ وأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] لَا نَعْرِفُ هٰذَا الْحَدِيثَ إِلَّا مِنْ حَدِيثِ قَيْسِ بْنِ الرَّبِيعِ، وقَيْسُ [بْنُ

1846. Salmān said: "I read in the *Tawrāh* that the blessing for food is in the *Wuḍū'* after it. So I mentioned that to the Prophet ﷺ, telling him what I read in the *Tawrāh*. So the Messenger of Allāh ﷺ said: 'The food's blessing is in the *Wuḍū'* before it and the *Wuḍū'* after it.'" (***Ḍa'īf***)

He said: There are narrations on this topic from Anas and Abū Hurairah.

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* except as a narration of Qais bin Ar-Rabī'. Qais [bin Ar-Rabī'] was graded weak in *Ḥadīth*. Abū Hāshim Ar-Rumānī's (a narrator in the chain) name is Yaḥya bin Dīnār.

الرَّبِيعِ] يُضَعَّفُ فِي الْحَدِيثِ وَأَبُو هَاشِمٍ الرُّمَّانِيُّ اسْمُهُ يَحْيَى بْنُ دِينَارٍ.

تخريج: [إسناده ضعيف] وأخرجه أبو داود، الأطعمة، باب: في غسل اليد قبل الطعام، ح:٣٧٦١ من حديث قيس بن الربيع به وقال أحمد: "هو منكر ما حدث به إلا قيس بن الربيع" وقال أبو حاتم: "هذا حديث منكر" وضعفه الذهبي والعراقي وغيرهما * قيس بن الربيع: ضعيف ضعفه الجمهور من جهة حفظه.

Comments:

The term *Wuḍū'* has been used here its literal meaning of washing the hands and mouth in connection with eating. This external etiquette when observed for eating also bears the internal fruit of *Barakah* (Allāh's blessings).

Chapter 40. About Not Performing *Wuḍū* Before Eating

(المعجم ٤٠) - بَابٌ: فِي تَرْكِ الْوُضُوءِ قَبْلَ الطَّعَامِ (التحفة ٤٠)

1847. Ibn 'Abbās narrated: "The Messenger of Allāh ﷺ came out from the toilet and some food was brought to him. They said: 'Shall we bring you some water for *Wuḍū'*?' He said: 'I have only been ordered to perform *Wuḍū'* when standing for *Ṣalāt*.'" (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Ṣaḥīḥ*]. 'Amr bin Dīnār has reported it from Sa'eed bin Al-Ḥuwairith, from Ibn 'Abbās. 'Alī bin Al-Madīnī said: "Yaḥya bin Sa'eed said: 'Sufyān Ath-Thawrī disliked washing the hands before eating food, and he disliked placing the bread under the bowl.'"

١٨٤٧ - **حَدَّثَنَا** أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ إِبْرَاهِيمَ عَنْ أَيُّوبَ، عَنِ ابْنِ أَبِي مُلَيْكَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ رَسُولَ اللهِ ﷺ خَرَجَ مِنَ الْخَلَاءِ فَقُرِّبَ إِلَيْهِ طَعَامٌ، فَقَالُوا: أَلَا نَأْتِيكَ بِوَضُوءٍ؟ قَالَ: «إِنَّمَا أُمِرْتُ بِالْوُضُوءِ إِذَا قُمْتُ إِلَى الصَّلَاةِ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ [صَحِيحٌ] وَقَدْ رَوَاهُ عَمْرُو بْنُ دِينَارٍ عَنْ سَعِيدِ ابْنِ الْحُوَيْرِثِ، عَنِ ابْنِ عَبَّاسٍ وَقَالَ عَلِيُّ بْنُ الْمَدِينِيِّ: قَالَ يَحْيَى بْنُ سَعِيدٍ: كَانَ سُفْيَانُ الثَّوْرِيُّ يَكْرَهُ غَسْلَ الْيَدِ قَبْلَ الطَّعَامِ، وَكَانَ يَكْرَهُ أَنْ يُوضَعَ الرَّغِيفُ تَحْتَ الْقَصْعَةِ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الأطعمة، باب: في غسل اليدين عند الطعام، ح:٣٧٦٠ والنسائي، ح:١٣٢ من حديث إسماعيل ابن علية به وصححه ابن خزيمة، ح:٣٥ وحسنه البغوي، ح:٢٨٣٥ وله طريق آخر عند مسلم وغيره * حديث عمرو بن دينار: أخرجه مسلم، ح:٣٧٤.

Comments:

If a person has already washed his hands and is in a state of cleanliness, there is no need to wash the hands afresh for eating. Nevertheless, if the hands have been soiled from doing some work, then the hands must certainly be washed.

Chapter 41. What Has Been Related About The *Tasmiyah* For Eating

1848. 'Ikrāsh bin Dhu'aib said: "Banū Murrah bin 'Ubaid sent me to bring the *Ṣadaqah* from their wealth to the Messenger of Allāh ﷺ. I arrived with him in Al-Madīnah and found him sitting between the *Muhājirīn* and the *Anṣār*." He said: "Then he took my hand and brought me to the home of Umm Salamah and he said: 'Do you have any food?' So a bowl containing a lot of *Tharīd* with pieces of meat was brought to us, and presented for us to eat from it. So I began wandering my hand around in it while the Messenger of Allāh ﷺ ate from what was in front of him. He grabbed my right hand with his left hand, then he said: 'O 'Ikrāsh! Eat from one spot, for indeed the food is one.' Then a plate containing various dried dates" – or fresh dates – 'Ubaidullāh (a narrator) was not sure. He said: "I began eating what was in front of me, while the hand of the Messenger of Allāh ﷺ roamed about the plate. He said: 'O 'Ikrāsh! Eat from wherever you like, for indeed it is not all from the same variety.' Then water was brought, so the Messenger of Allāh ﷺ washed his hands, and with the wetness of his hands he wiped his face, his forearms, and his head, and he said: 'O 'Ikrāsh! This is the *Wuḍū'* for that which has been altered by fire.'" (*Ḍa'īf*)

(المعجم ٤١) - بَابُ مَا جَاءَ فِي التَّسْمِيَةِ فِي الطَّعَامِ (التحفة ٤١)

١٨٤٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا العَلَاءُ بْنُ الفَضْلِ بْنِ عَبْدِ المَلِكِ بْنِ أَبِي السَّوِيَّةِ أَبُو الهُذَيْلِ قَالَ: حَدَّثَنِي عُبَيْدُ اللهِ بْنُ عِكْرَاشٍ عَنْ أَبِيهِ عِكْرَاشِ بْنِ ذُؤَيْبٍ قَالَ: بَعَثَنِي بَنُو مُرَّةَ بْنِ عُبَيْدٍ بِصَدَقَاتِ أَمْوَالِهِمْ إِلَى رَسُولِ اللهِ ﷺ فَقَدِمْتُ عَلَيْهِ المَدِينَةَ فَوَجَدْتُهُ جَالِسًا بَيْنَ المُهَاجِرِينَ والأَنْصَارِ قَالَ: ثُمَّ أَخَذَ بِيَدِي فَانْطَلَقَ بِي إِلَى بَيْتِ أُمِّ سَلَمَةَ فَقَالَ: «هَلْ مِنْ طَعَامٍ؟» فَأُتِينَا بِجَفْنَةِ الثَّرِيدِ وَالوَذْرِ، وأَقْبَلْنَا نَأْكُلُ مِنْهَا فَخَبَطْتُ بِيَدِي فِي نَوَاحِيهَا وَأَكَلَ رَسُولُ اللهِ ﷺ مِنْ بَيْنِ يَدَيْهِ فَقَبَضَ بِيَدِهِ اليُسْرَىٰ عَلَىٰ يَدِي اليُمْنَىٰ ثُمَّ قَالَ: «يَا عِكْرَاشُ! كُلْ مِنْ مَوْضِعٍ واحِدٍ فَإِنَّهُ طَعَامٌ واحِدٌ» ثُمَّ أُتِينَا بِطَبَقٍ فِيهِ أَلْوَانُ التَّمْرِ أَوِ الرُّطَبِ، شَكَّ عُبَيْدُاللهِ قَالَ: فَجَعَلْتُ آكُلُ مِنْ بَيْنِ يَدَيَّ وَجَالَتْ يَدُ رَسُولِ اللهِ ﷺ فِي الطَّبَقِ قَالَ: «يَا عِكْرَاشُ! كُلْ مِنْ حَيْثُ شِئْتَ فَإِنَّهُ غَيْرُ لَوْنٍ وَاحِدٍ» ثُمَّ أُتِينَا بِمَاءٍ فَغَسَلَ رَسُولُ اللهِ ﷺ يَدَيْهِ ومَسَحَ بِبَلَلِ كَفَّيْهِ وَجْهَهُ وَذِرَاعَيهِ وَرَأْسَهُ وقَالَ: «يَا عِكْرَاشُ! هٰذَا الوُضُوءُ مِمَّا غَيَّرَتِ النَّارُ» [قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ العَلَاءِ بْنِ الْفَضْلِ وقَدْ تَفَرَّدَ الْعَلَاءُ بِهٰذَا الْحَدِيثِ وفي الحَدِيثِ قِصَّةٌ [ولَا نَعْرِفُ لِعِكْرَاشٍ عَنِ النَّبِيِّ ﷺ إِلَّا هٰذَا الْحَدِيثَ].

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it except through the narration of Al-'Alā' bin Al-Faḍl, and Al-Alā' was alone with this narration, and there is more in the story in the *Ḥadīth*. [And we do not know a *Ḥadīth* from the Prophet ﷺ by 'Ikrāsh except this.]

تخريج: [**إسناده ضعيف**] وأخرجه ابن ماجه، الأطعمة، باب الأكل مما يليك، ح:٣٢٧٤ عن محمد بن بشار به * العلاء بن الفضل ضعيف (تقريب) وعبيدالله بن عكراش: قال البخاري: "لا يثبت حديثه".

Comments:

Although the *Ḥadīth* is weak some the rules of etiquette contained in it are corroborated from other *Aḥādīth*, some of which are to follow.

Chapter 42. What Has Been Related About Eating Gourd

(المعجم ٤٢) - بَابُ مَا جَاءَ فِي أَكْلِ الدُّبَّاءِ (التحفة ٤٢)

1849. Abū Ṭālūt said: "I entered upon Anas bin Mālik while he was eating gourd, and he was saying: 'O you tree! I do not like you but because the Messenger of Allāh ﷺ liked you.'" (*Ḍa'īf*)

[He said:] There is something on this topic from Ḥakīm bin Jābir, from his father.

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* from this route.

١٨٤٩ - حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ: حَدَّثَنَا اللَّيْثُ عَنْ مُعَاوِيَةَ بْنِ صَالِحٍ، عَنْ أَبِي طَالُوتَ قَالَ: دَخَلْتُ عَلَى أَنَسِ بْنِ مَالِكٍ وهُوَ يَأْكُلُ القَرْعَ وهُوَ يَقُولُ: يَا لَكِ شَجَرَةً مَا أُحِبُّكِ إِلَّا لِحُبِّ رَسُولِ اللهِ ﷺ إِيَّاكِ.

[قَالَ:] وفِي الْبَابِ عَنْ حَكِيمِ بْنِ جَابِرٍ، عَنْ أَبِيهِ.

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ.

تخريج: [**إسناده ضعيف**] * أبو طالوت الشامي: مجهول(تقريب) والحديث الآتي شاهد لبعضه * وفي الباب عن حكيم بن جابر عن أبيه [الترمذي في الشمائل، ح:١٦٠].

Comments:

To love a vegetable or food because the Messenger of Allāh ﷺ liked it is evidence of a persons love and reverence for the Prophet ﷺ himself, although the liking or eating of it has not been made an obligatory duty upon a believer in the *Sharī'ah*.

١٨٥٠ - حَدَّثَنَا مُحَمَّدُ بْنُ مَيْمُونٍ المَكِّيُّ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ قَالَ: حَدَّثَنِي مَالِكُ [ابْنُ أَنَسٍ] عَنْ إِسْحَاقَ بْنِ عَبْدِ اللهِ بْنِ أَبِي طَلْحَةَ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: رَأَيْتُ رَسُولَ اللهِ ﷺ يَتَتَبَّعُ فِي الصَّحْفَةِ - يَعْنِي الدُّبَّاءَ - فَلَا أَزَالُ أُحِبُّهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ هٰذَا الْحَدِيثُ مِنْ غَيْرِ وَجْهٍ عَنْ أَنَسِ بْنِ مالِكٍ.

1850. Anas bin Mālik said: "I saw the Messenger of Allāh ﷺ taking from the sides around the dish – meaning the gourd. Since then I still like it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. This *Ḥadīth* has been reported through more than one route from Anas bin Mālik.

تخريج: متفق عليه، وأخرجه البخاري، الأطعمة، باب من تتبع حوالي القصعة مع صاحبه إذا لم يعرف منه كراهية، ح:٥٣٧٩ ومسلم، ح:٢٠٤١ من حديث مالك به وهو في الموطأ:٢/٥٤٦، ٥٤٧ بطوله.

(المعجم ٤٣) - بَابُ مَا جَاءَ فِي أَكْلِ الزَّيْتِ (التحفة ٤٣)

Chapter 43. What Has Been Related About Eating Olive Oil

١٨٥١ - حَدَّثَنَا يَحْيَى بْنُ مُوسَى: حَدَّثَنَا عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ أَبِيهِ، عَنْ عُمَرَ بْنِ الْخَطَّابِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «كُلُوا الزَّيْتَ وَادَّهِنُوا بِهِ فَإِنَّهُ مِنْ شَجَرَةٍ مُبَارَكَةٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ عَبْدِ الرَّزَّاقِ عَنْ مَعْمَرٍ. وكَانَ عَبْدُ الرَّزَّاقِ يَضْطَرِبُ فِي رِوَايَةِ هٰذَا الْحَدِيثِ، فَرُبَّمَا ذَكَرَ فِيهِ عَنْ عُمَرَ عَنِ النَّبِيِّ ﷺ، ورُبَّمَا رَوَاهُ عَلَى الشَّكِّ فَقَالَ: أَحْسَبُهُ عَنْ عُمَرَ عَنِ النَّبِيِّ ﷺ، ورُبَّمَا قَالَ: عَنْ زَيْدِ ابْنِ أَسْلَمَ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

حَدَّثَنَا أَبُو دَاوُدَ سُلَيْمَانُ بْنُ مَعْبَدٍ: حَدَّثَنَا

1851. 'Umar bin Al-Khaṭṭāb narrated that the Messenger of Allāh ﷺ said: "Eat olive and use its oil, for indeed it is a blessed tree." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] We do not know of this *Ḥadīth* except through the narration of 'Abdur-Razzāq from Ma'mar (narrators in the chain of this *Ḥadīth*). 'Abdur-Razzāq would narrate this with *Idṭirāb*. Sometimes he mentioned in it: "From 'Umar, from the Prophet ﷺ" and sometimes he reported it indicating doubt, saying: "I think it is from 'Umar from the Prophet ﷺ." And sometimes he said: "From Zaid bin Aslam, from his father, from the Prophet ﷺ" in *Mursal* form.

(Another chain) from Zaid bin

Aslam, from his father, from the Prophet ﷺ with similar. And he did not mention "from 'Umar" in it.

عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنْ زَيْدِ بْنِ أَسْلَمَ، عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ نَحْوَهُ ولَمْ يَذْكُرْ فِيهِ عَنْ عُمَرَ.

تخريج: [إسناده صحيح] وأخرجه ابن ماجه، الأطعمة، باب الزيت، ح:٣٣١٩ من حديث عبدالرزاق به وصححه الحاكم على شرط الشيخين:٤/١٢٢ ووافقه الذهبي وأورده الضياء في المختارة * حديث عبدالرزاق عن معمر عن زيد بن أسلم عن أبيه، في المصنف له:١٠/٤٢٢، ح:١٩٥٦٨ وللحديث شواهد كثيرة.

Comments:

In *Sūrat An-Nūr*, 24 of the Qur'ān, the olive tree has been described as a blessed tree, and praise has been given to its oil. That is why the Prophet ﷺ has exhorted the believers to make use of it.

1852. Abū Asīd said: "The Prophet ﷺ said: Eat of its oil and use it (the olives), for indeed it is from a blessed tree." **(*Ṣaḥīḥ*)**

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* from this route. We only know of it from the narration [of Sufyān Ath-Thawrī, from] 'Abdullāh bin 'Eīsā.

١٨٥٢ - **حَدَّثَنَا** مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو أَحْمَدَ الزُّبَيْرِيُّ وأَبُو نُعَيْمٍ قَالَا: حَدَّثَنَا سُفْيَانُ عَنْ عَبْدِ اللهِ بْنِ عِيسَى، عَنْ رَجُلٍ يُقَالُ لَهُ: عَطَاءٌ مِنْ أَهْلِ الشَّامِ، عَنْ أَبِي أَسِيدٍ قَالَ: قَالَ النَّبِيُّ ﷺ: «كُلُوا مِنَ الزَّيْتِ وادَّهِنُوا بِهِ فَإِنَّهُ مِنْ شَجَرَةٍ مُبَارَكَةٍ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ إِنَّمَا نَعْرِفُهُ مِنْ حَدِيثِ [سُفْيَانَ الثَّوْرِيِّ عَنْ] عَبْدِ اللهِ بْنِ عِيسَى.

تخريج: [صحيح] وأخرجه الطبراني في الكبير:١٩/٢٦٩، ٢٧٠، ح:٥٩٧ من حديث سفيان يعني الثوري به وتابعه زهير بن معاوية عنده، ح:٥٩٦ وصححه الحاكم:٢/٣٩٧،٣٩٨ ووافقه الذهبي وللحديث شواهد منها الحديث السابق * عطاء ليس بابن أبي رباح.

Chapter 44. What Has Been Related About Eating With Slaves (And Dependants)

(المعجم ٤٤) - بَابُ مَا جَاءَ فِي الْأَكْلِ مَعَ الْمَمْلُوكِ [وَالْعِيَالِ] (التحفة ٤٤)

1853. Ismā'īl bin Abī Khālid narrated from his father that Abū Hurairah informed them that the Prophet ﷺ said: "When the servant of one of you has endured

١٨٥٣ - **حَدَّثَنَا** نَصْرُ بْنُ عَلِيٍّ: حَدَّثَنَا سُفْيَانُ عَنْ إِسْمَاعِيلَ بْنِ أَبِي خَالِدٍ، عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ يُخْبِرُهُمْ بِذَلِكَ عَنِ النَّبِيِّ ﷺ قَالَ: «إِذَا كَفَا أَحَدَكُمْ خَادِمُهُ طَعَامَهُ حَرَّهُ

heat and smoke preparing his food for him, then let him take him by the hand and make him sit him down with him. If he refuses, then let him take a morsel and feed him with it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*. Abū Khālid is the father of Ismā'īl, his name is Sa'd.

وَدُخَانَهُ، فَلْيَأْخُذْ بِيَدِهِ فَلْيُقْعِدْهُ مَعَهُ، فَإِنْ أَبَى فَلْيَأْخُذْ لُقْمَةً فَلْيُطْعِمْهُ إِيَّاهَا».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وَأَبُو خَالِدٍ وَالِدُ إِسْمَاعِيلَ اسْمُهُ سَعْدٌ.

تخريج: [صحيح] وأخرجه ابن ماجه، الأطعمة، باب: إذا أتاه خادمه بطعامه فليناوله منه، ح:٣٢٨٩ من حديث إسماعيل بن أبي خالد به وسنده ضعيف لعنعنة إسماعيل وللحديث شواهد كثيرة عند البخاري ومسلم وابن ماجه: ٣٢٩٠ وغيرهم.

Comments:

Since the slave or servant that toils for you, and endures all the hard work preparing the food for you and, in the process, perhaps develops a desire for eating the preparation made by him, and you have enough food with you, then it would certainly be most proper and pertinent that you also let him share the food with you.

Chapter 45. What Has Been Related About The Virtues Of Feeding Others

(المعجم ٤٥) - بَابُ مَا جَاءَ فِي فَضْلِ إِطْعَامِ الطَّعَامِ (التحفة ٤٥)

1845. Abū Hurairah narrated that the Prophet ﷺ said: "Spread the (greetings of) *Salām*, feed others, strike the heads (of the enemy disbelievers); you will inherit Paradise." (*Ḍa'īf*)

He said: There are narrations on this topic from 'Abdullāh bin 'Amr, Ibn 'Umar, Anas, 'Abdus-Salām, 'Abdur-Raḥmān bin 'Āish, and Shuraiḥ bin Hāni' from his father.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* as a narration of [Ibn Ziyād] from Abū Hurairah.

١٨٥٤ - **حَدَّثَنَا** يُوسُفُ بْنُ حَمَّادٍ [المَعْنِيُّ البَصْرِيُّ]: حَدَّثَنَا عُثْمَانُ بْنُ عَبْدِ الرَّحْمٰنِ الْجُمَحِيُّ عَنْ مُحَمَّدِ بْنِ زِيَادٍ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «أَفْشُوا السَّلَامَ وأَطْعِمُوا الطَّعَامَ، واضْرِبُوا الْهَامَ تُورَثُوا الْجِنَانَ».

قَالَ: وفِي الْبَابِ عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو وابْنِ عُمَرَ وَأَنَسٍ وعَبْدِ اللهِ بْنِ سَلَامٍ وعَبْدِ الرَّحْمٰنِ ابْنِ عَائِشٍ وشُرَيْحِ بْنِ هَانِىءٍ، عَنْ أَبِيهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ [ابْنِ زِيَادٍ] عَنْ أَبِي هُرَيْرَةَ.

تخريج: [إسناده ضعيف] * عثمان الجمحي ليس بالقوي كما في التهذيب وغيره وانظر تسهيل الحاجة، ح:٣٣٤٢ وللحديث شواهد صحيحة دون قوله: "واضربوا الهام تورثوا الجنان" * وفي الباب عن عبدالله بن عمرو [يأتي:١٨٥٥] وابن عمر [ابن ماجه، ح:٣٢٥٢] وأنس [البيهقي

في شعب الإيمان، ح:٣٣٦٧] وعبدالله بن سلام [يأتي:٢٤٨٥] وعبدالرحمن بن عائش [البغوي في شرح السنة: ٤/٣٦، ح:٩٢٤] وشريح بن هانئ عن أبيه [البخاري في الأدب المفرد، ح:٨١١].

Comments:

These characteristics, general in nature as they are, can well be regarded as highly commendable moral virtues in a man's character that make him deserving of a place in Paradise.

1855. 'Abdullāh bin 'Amr narrated that the Messenger of Allāh ﷺ said: "(All of you) worship Ar-Raḥmān, feed others, spread the (greeting of) *Salām*, then you will enter Paradise in security." (***Ṣaḥīḥ***)

[He said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٥٥ - حَدَّثَنَا هَنَّادٌ: حَدَّثَنَا أَبُو الْأَحْوَصِ عَنْ عَطَاءِ بْنِ السَّائِبِ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللهِ ابْنِ عَمْرٍو قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «اعْبُدُوا الرَّحْمٰنَ، وأَطْعِمُوا الطَّعَامَ، وأَفْشُوا السَّلَامَ تَدْخُلُوا الْجَنَّةَ بِسَلَامٍ».

[قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه ابن ماجه، الأدب، باب إفشاء السلام، ح:٣٦٩٤ من حديث عطاء بن السائب به وللحديث شواهد كثيرة جدًّا.

Comments:

That we worship Allāh (Ar-Rahmān) alone is the right of Allāh upon us all. Similarly, greeting every known or unknown Muslim with *Salām* and feeding the needy is the right of men upon us. Thus, anyone who fulfills the rights of both men and Allāh ﷻ, then he is of the people of Paradise.

Chapter 46. What Has Been Related About The Virtue Of *Al-'Ashā'*[1]

(المعجم ٤٦) - بَابُ مَا جَاءَ فِي فَضْلِ الْعَشَاءِ (التحفة ٤٦)

1856. Anas bin Mālik narrated that the Messenger of Allāh ﷺ said: "Take the *'Ashā'* meal, even if it is just with a handful of something to fill. For indeed avoiding the *'Ashā'* is from senility." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Munkar*, we do not know of it except from this route. 'Anbasah was graded weak in *Ḥadīth*. 'Abdul-Mālik bin 'Allāq is unknown.

١٨٥٦ - حَدَّثَنَا يَحْيَى بْنُ مُوسَى: حَدَّثَنَا مُحَمَّدُ بْنُ يَعْلَى الكُوفِيُّ: حَدَّثَنَا عَنْبَسَةُ بْنُ عَبْدِ الرَّحْمٰنِ الْقُرَشِيُّ عَنْ عَبْدِ المَلِكِ بْنِ عَلَّاقٍ، عَنْ أَنَسِ بْنِ مَالِكٍ قَالَ: قَالَ النَّبِيُّ ﷺ: «تَعَشَّوْا ولَوْ بِكَفٍّ مِنْ حَشَفٍ، فَإِنَّ تَرْكَ العَشَاءِ مَهْرَمَةٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ مُنْكَرٌ لَا نَعْرِفُهُ إِلَّا مِنْ هٰذَا الوَجْهِ. وعَنْبَسَةُ يُضَعَّفُ في

[1] Dinner or supper.

الْحَدِيثِ. وعَبْدُ المَلِكِ بْنُ عَلَّاقٍ مَجْهُولٌ.

تخريج: [**إسناده ضعيف جدًا**] وأخرجه ابن عدي: ٥/ ١٩٠١ من حديث محمد بن يعلى به وهو ضعيف وعنبسة بن عبدالرحمن: متروك، رماه أبوحاتم بالوضع (تقريب) وللحديث شاهد ضعيف جدًا عند ابن ماجه، ح: ٣٣٥٥.

Comments:

If one feels a genuine need for eating but does not eat, he runs the risk of generating heat in his stomach. Hunger soon starts draining away the natural juices of the body as well as diminishing the appetite, which leads to the weakening of the body and, as a rule, a weak person ages faster. This is a medical truism mistaken for a *Ḥadīth*.

Chapter 47. What Has Been Related About The *Tasmiyah* Over Food

(المعجم ٤٧) - بَابُ مَا جَاءَ فِي التَّسْمِيَةِ عَلَى الطَّعَامِ (التحفة ٤٧)

1857. 'Umar bin Abī Salamah narrated that he entered upon the Messenger of Allāh ﷺ while he had some food. He said: "Sit down O my son! Mention Allāh's Name and eat with your right hand, and eat what is nearest to you." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] It has been reported from Hishām bin 'Urwah, from Abū Wajzah As-Sa'dī, from a man from Muzainah, from 'Umar bin Abī Salamah. The companions of Hishām bin 'Urwah differed in reporting this *Ḥadīth*. Abū Wajzah As-Sa'dī's name is Yazīd bin 'Ubaid.

١٨٥٧ - حَدَّثَنَا عَبْدُ اللهِ بْنُ الصَّبَّاحِ الهَاشِمِيُّ: حَدَّثَنَا عَبْدُ الأَعْلَى عَنْ مَعْمَرٍ، عَنْ هِشَامِ بْنِ عُرْوَةَ، عَنْ أَبِيهِ، عَنْ عُمَرَ بْنِ أَبِي سَلَمَةَ أَنَّهُ دَخَلَ عَلَى رَسُولِ اللهِ ﷺ وَعِنْدَهُ طَعَامٌ، قَالَ: «ادْنُ يَا بُنَيَّ، وَسَمِّ اللهَ وكُلْ بِيَمِينِكَ وكُلْ مِمَّا يَلِيكَ».

[قَالَ أَبُو عِيسَى:] وقَدْ رُوِيَ عَنْ هِشَامِ بْنِ عُرْوَةَ عَنْ أَبِي وَجْزَةَ السَّعْدِيِّ، عَنْ رَجُلٍ مِنْ مُزَيْنَةَ، عَنْ عُمَرَ بْنِ أَبِي سَلَمَةَ وقَدِ اخْتَلَفَ أَصْحَابُ هِشَامِ بْنِ عُرْوَةَ في رِوَايَةِ هٰذَا الحَدِيثِ وأَبُو وَجْزَةَ السَّعْدِيُّ اسْمُهُ يَزِيدُ بْنُ عُبَيْدٍ.

تخريج: [**صحيح**] وأخرجه ابن ماجه، الأطعمة، باب التسمية عند الطعام، ح: ٣٢٦٥ من حديث هشام به مختصرًا ورواه البخاري، ح: ٥٣٧٦ ومسلم، ح: ٢٠٢٢ من حديث عمر بن أبي سلمة به.

Comments:

Blessed will be the food over which is mentioned the name of Allāh, since the very mention of Allāh's Name means scaring the *Shāitān* away and keeping him from sharing the meals or working his wiles and mischief. It, moreover, awakens the realization in the mind of man that food is a special gift of Allāh, and it is through Allāh's bounty and grace that he has been able to eat his food and enjoy its deliciousness and benefits.

1858. Umm Kulthūm narrated from 'Āishah that the Messenger of Allāh ﷺ said: "When one of you eats food, then let him say: '*Bismillāh.*' If he forgets in the beginning, then let him say: '*Bismillāh Fī Awwalihi Wa Ākhirih* (In the Name of Allāh in its beginning and its end.)'"

It is narrated with this chain of narration, from 'Aishah who said: "The Prophet ﷺ was eating food with six of his Companions. A Bedouin came and ate it in two mouthfuls. So the Messenger of Allāh ﷺ said: "As for him, had he mentioned (Allāh's Name), it would have been enough for all of you." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. [Umm Kulthūm is the daughter of Muhammad bin Abī Bakr As-Siddīq, may Allāh be pleased with them.]

١٨٥٨ - **حَدَّثَنَا** أَبُو بَكْرٍ مُحَمَّدُ بْنُ أَبَانَ: حَدَّثَنَا وَكِيعٌ: حَدَّثَنَا هِشَامٌ الدَّسْتَوَائِيُّ عَنْ بُدَيْلِ بْنِ مَيْسَرَةَ الْعُقَيْلِيِّ، عَنْ عَبْدِ اللهِ بْنِ عُبَيْدِ بْنِ عُمَيْرٍ، عَنْ أُمِّ كُلْثُومٍ، عَنْ عَائِشَةَ قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «إِذَا أَكَلَ أَحَدُكُمْ طَعَامًا فَلْيَقُلْ بِسْمِ اللهِ، فَإِنْ نَسِيَ فِي أَوَّلِهِ فَلْيَقُلْ: بِسْمِ اللهِ فِي أَوَّلِهِ وآخِرِهِ».

وبِهٰذَا الْإِسْنَادِ عَنْ عَائِشَةَ قَالَتْ: كَانَ النَّبِيُّ ﷺ يَأْكُلُ طَعَامًا فِي سِتَّةٍ مِنْ أَصْحَابِهِ فَجَاءَ أَعْرَابِيٌّ فَأَكَلَهُ بِلُقْمَتَيْنِ، فَقَالَ رَسُولُ اللهِ ﷺ: «أَمَا إِنَّهُ لَوْ سَمَّى كَفَاكُمْ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. [وأُمُّ كُلْثُومٍ هِيَ بِنْتُ مُحَمَّدِ بْنِ أَبِي بَكْرٍ الصِّدِّيقِ رَضِيَ اللهُ عَنْهُ.]

تخريج: [إسناده صحيح] وأخرجه أبو داود، الأطعمة، باب التسمية على الطعام، ح:٣٧٦٧ وابن ماجه، ح:٣٢٦٤ من حديث هشام الدستوائي به مختصرًا وصححه ابن حبان، ح:١٣٤١ والحاكم: ٤/١٠٨ ووافقه الذهبي.

Comments:

One must begin his food with *Bismillāh*. In case a person forgets to say it in the beginning, let him remedy the lapse by saying *Bismillāhi Fī Awwalihi Wa Ākhirihi* as soon as he is reminded of it.

Chapter 48. What Has Been Related About It Being Disliked To Spend The Night While One Has A Smell On His Hand

(المعجم ٤٨) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الْبَيْتُوتَةِ وَفِي يَدِهِ [رِيحُ] غَمَرٍ (التحفة ٤٨)

1859. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Indeed *Ash-Shaitān* has a sense of taste, for which he licks, so beware of him. So whoever spends the

١٨٥٩ - **حَدَّثَنَا** أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا يَعْقُوبُ بْنُ الوَلِيدِ الْمَدَنِيُّ عَنِ ابْنِ أَبِي ذِئْبٍ، عَنِ الْمَقْبُرِيِّ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ الشَّيْطَانَ حَسَّاسٌ

night with [a smell] on his hand and something happens to him, then let him not blame anyone but himself." (***Mawḍū'***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb* from this route. It has also been reported in a narration of Suhail bin Abī Ṣāliḥ, from his father, from Abū Hurairah, from the Prophet ﷺ.

لَحَّاسٌ، فاحْذَرُوهُ عَلَى أَنْفُسِكُمْ، مَنْ بَاتَ وَفِي يَدِهِ [رِيحُ] غَمَرٍ فَأَصَابَهُ شَيْءٌ فَلَا يَلُومَنَّ إِلَّا نَفْسَهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ مِنْ هٰذَا الْوَجْهِ. وقَدْ رُوِيَ مِنْ حَدِيثِ سُهَيْلِ بْنِ أَبِي صَالِحٍ عَنْ أَبِيهِ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ.

تخريج: [إسناده موضوع] وأخرجه الحاكم: ٤/ ١٣٧ من حديث أحمد بن منيع وابن عدي: ٧/ ٢٦٠٦ من حديث يعقوب بن الوليد به وهو كذاب كما قال أحمد وغيره * روى أبو داود، ح: ٣٨٥٢ وابن ماجه، ح: ٣٢٩٧ من حديث سهيل عن أبيه عن أبي هريرة عن النبي ﷺ قال: "من نام وفي يده غمر ولم يغسله فأصابه شيء فلا يلومن إلا نفسه" وسنده صحيح وصححه ابن حبان، ح: ١٣٥٤ وهو في جزء سهيل بن أبي صالح، ح: ٣٣.

1860. Abū Hurairah narrated that the Messenger of Allāh ﷺ said: "Whoever spends the night with [a smell] on his hand and something happens to him, then let him not blame anyone but himself." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb*, we do not know of it as a narration of Al-A'mash except through this route.

١٨٦٠ - **حَدَّثَنَا** أَبُو بَكْرٍ مُحَمَّدُ بْنُ إِسْحَاقَ أَبُو بَكْرٍ الْبَغْدَادِيُّ [الصَّاغَانِيُّ]: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ المَدَائِنِيُّ: حَدَّثَنَا مَنْصُورُ بْنُ أَبِي الْأَسْوَدِ عَنِ الْأَعْمَشِ، عَنْ أَبِي صَالِحٍ، عَنْ أَبِي هُرَيْرَةَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ بَاتَ وفي يَدِهِ [رِيحُ] غَمَرٍ فَأَصَابَهُ شَيْءٌ فَلَا يَلُومَنَّ إِلَّا نَفْسَهُ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ الْأَعْمَشِ إِلَّا مِنْ هٰذَا الْوَجْهِ.

تخريج: [صحيح] وأخرجه الحاكم: ٤/ ١٣٧ من حديث محمد بن إسحاق البغدادي به وصححه * حديث أبي داود، ح: ٣٨٥٢ وابن ماجه، ح: ٣٢٩٧ شاهد له، انظر الحديث السابق.

In the Name of Allāh,
the Merciful, the Beneficent

بِسْمِ اللَّهِ الرَّحْمَٰنِ الرَّحِيمِ

24. The Chapters On Drinks From The Messenger Of Allāh ﷺ

(المعجم ٢٤) - أَبْوَابُ الأَشْرِبَةِ عَنْ رَسُولِ اللهِ ﷺ (التحفة ٢١)

Chapter 1. What Has Been Related About Drinking *Khamr*[1]

(المعجم ١) - بَابُ مَا جَاءَ فِي شَارِبِ الْخَمْرِ (التحفة ١)

1861. Ibn 'Umar narrated that the Messenger of Allāh ﷺ said: "Every intoxicant is *Khamr*, and every intoxicant is unlawful. Whoever drinks *Khamr* in this world, and dies continuing it, he will not drink it in the Hereafter. " (*Sahīh*)

[He said:] There are narrations on this topic from Abū Hurairah, Abū Sa'eed, 'Abdullāh bin 'Amr, 'Ubādah, Abū Mālik Al-Ash'arī, and Ibn 'Abbās.

[Abū 'Eīsā said:] The *Hadīth* of Ibn 'Umar is a *Hasan Sahīh Hadīth*. It has been reported through other routes from Nāfi', from Ibn 'Umar, from the Prophet ﷺ. Mālik bin Anas reported it from Nāfi' from Ibn 'Umar in *Mawqūf* – not *Marfū'* form.

١٨٦١ - حَدَّثَنَا [أَبُو زَكَرِيَّا] يَحْيَى بْنُ دُرُسْتَ [الْبَصْرِيُّ]: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ أَيُّوبَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ مُسْكِرٍ حَرَامٌ، وَمَنْ شَرِبَ الْخَمْرَ فِي الدُّنْيَا فَمَاتَ وَهُوَ يُدْمِنُهَا لَمْ يَشْرَبْهَا فِي الآخِرَةِ».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ وأَبِي سَعِيدٍ وعَبْدِ اللهِ بْنِ عَمْرٍو وعُبَادَةَ وأَبِي مَالِكٍ الأَشْعَرِيِّ وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى] حَدِيثُ ابْنِ عُمَرَ حَدِيثٌ حَسَنٌ صَحِيحٌ. وقَدْ رُوِيَ مِنْ غَيْرِ وَجْهٍ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ. ورَوَاهُ مَالِكُ بْنُ أَنَسٍ عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ مَوْقُوفًا ولَمْ يَرْفَعْهُ.

تخريج: متفق عليه، وأخرجه مسلم، الأشربة، باب بيان أن كل مسكر خمر، وأن كل خمر حرام، ح:٢٠٠٣ من حديث حماد بن زيد والبخاري، ح:٥٥٧٥ من حديث نافع به مطولاً ومختصرًا * وفي الباب عن أبي هريرة [البخاري، ح:٢٤٧٥ ومسلم، ح:٥٧ وأبي سعيد [مسلم،

[1] All alcoholic drinks.

ح:١٥٧٨ وعبد بن حميد، ح:٩٨٣] وعبدالله بن عمرو [أحمد:٢/ ٢٠٩] وابن عباس [أبو داود، ح:٣٦٨٠ وأحمد:١/ ٢٧٢] وعبادة [ابن ماجه، ح:٣٣٨٥] وأبي مالك الأشعري [البخاري، ح:٥٥٩٠ وأبو داود، ح:٣٦٨٨].

Comments:

The *Hadīth* tells us that every intoxicant is *Khamr* (liquor), and every intoxicant is forbidden and unlawful for consumption.

1862. 'Abdullāh bin 'Umar narrated that the Messenger of Allāh ﷺ said: "Whoever drinks *Khamr*, *Ṣalāt* is not accepted from him for forty days. If he repents, then Allāh will accept his repentance. If he returns to it, then Allāh will not accept his *Ṣalāt* for forty days. If he repents, then Allāh will accept his repentance. If he returns to it, then Allāh will not accept his *Ṣalāt* for forty days. If he repents, then Allāh will accept his repentance. If he returns to it a fourth time, Allāh will not accept his *Ṣalāt* for forty days, and if he were to repent, Allāh would not accept his repentance, and he will be given to drink from the river of *Al-Khabāl*." They said: "O Abū 'Abdur-Raḥmān! What is the river of *Al-Khabāl*?" He said: "A river of the pus from the inhabitants of the Fire." (***Ḍa'īf***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. Similar to this has been reported from 'Abdullāh bin 'Amr and Ibn 'Abbās from the Prophet ﷺ.

١٨٦٢ - **أَخْبَرَنَا قُتَيْبَةُ**: حَدَّثَنَا جَرِيرُ [بْنُ عَبْدِالحَمِيدِ] عَنْ عَطَاءِ بْنِ السَّائِبِ، عَنْ عَبْدِ اللهِ بْنِ عُبَيْدِ بْنِ عُمَيْرٍ، عَنْ أَبِيهِ قَالَ: قَالَ عَبْدُ اللهِ بْنُ عُمَرَ: قَالَ رَسُولُ اللهِ ﷺ: «مَنْ شَرِبَ الْخَمْرَ لَمْ تُقْبَلْ لَهُ صَلَاةٌ أَرْبَعِينَ صَبَاحًا، فَإِنْ تَابَ تَابَ اللهُ عَلَيْهِ، فَإِنْ عَادَ لَمْ يَقْبَلِ اللهُ لَهُ صَلَاةً أَرْبَعِينَ صَبَاحًا، فَإِنْ تَابَ تَابَ اللهُ عَلَيْهِ فَإِنْ عَادَ لَمْ يَقْبَلِ اللهُ لَهُ صَلَاةً أَرْبَعِينَ صَبَاحًا، فَإِنْ تَابَ تَابَ اللهُ عَلَيْهِ، فَإِنْ عَادَ الرَّابِعَةَ لَمْ يَقْبَلِ اللهُ لَهُ صَلَاةً أَرْبَعِينَ صَبَاحًا، فَإِنْ تَابَ لَمْ يَتُبِ اللهُ عَلَيْهِ وسَقَاهُ مِنْ نَهْرِ الْخَبَالِ». قِيلَ: يَا أَبَا عَبْدِ الرَّحْمٰنِ! وَمَا نَهْرُ الْخَبَالِ؟ قَالَ: نَهْرٌ مِنْ صَدِيدِ أَهْلِ النَّارِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ.

وقَدْ رُوِيَ نَحْوُ هٰذَا عَنْ عَبْدِ اللهِ بْنِ عَمْرٍو وابْنِ عَبَّاسٍ عَنِ النَّبِيِّ ﷺ.

تخريج: **[إسناده ضعيف]** وللحديث شواهد عند ابن ماجه، ح:٣٣٧٧ والنسائي، ح:٥٦٧٣ وغيرهما دون قوله: "فإن تاب لم يتب الله عليه، وهذا اللفظ المنكر جدًا" * ورواه أحمد:٢/ ٣٥ من حديث معمر عن عبدالله بن عبيد بن عمير عن ابن عمر به بغير هذا اللفظ عطاء بن السائب اختلط.

Comments:

Liquor (wine) is so harmful a substance that it takes away the drinker's faculty

of thinking or reason for a while. And reason (or intellect) is a faculty that enables man to recognize his Master and Creator. And it is because of this faculty that man has been made accountable before Allāh and 'preferred them to many of those whom We have created with a marked preferment. (*Sūrat Al-Isrā'* 17:70).

Chapter 2. What Has Been Related About: Every Intoxicant Is Unlawful

(المعجم ٢) - بَابُ مَا جَاءَ كُلُّ مُسْكِرٍ حَرَامٌ (التحفة ٢)

1863. 'Āishah narrated that the Prophet ﷺ was asked about *Bit'*,[1] so he said: "All drinks that intoxicate are unlawful." (***Sahīh***)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٨٦٣ - حَدَّثَنَا إِسْحَاقُ بْنُ مُوسَى الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مَالِكُ بْنُ أَنَسٍ عَنِ ابْنِ شِهَابٍ، عَنْ أَبِي سَلَمَةَ، عَنْ عَائِشَةَ: أَنَّ النَّبِيَّ ﷺ سُئِلَ عَنِ الْبِتْعِ؟ فَقَالَ: «كُلُّ شَرَابٍ أَسْكَرَ فَهُوَ حَرَامٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الأشربة، باب الخمر من العسل وهو البتع، ح:٥٥٨٥ ومسلم، ح:٢٠٠١ من حديث مالك به وهو في الموطأ: ٢/ ٨٤٥.

Comments:

The Prophet's ﷺ declaration that every intoxicant is unlawful is a golden rule that decides once and for all that any object or substance that intoxicates is forbidden and unlawful for consumption. This is the view of the vast majority of our pious predecessors.

1864. Ibn 'Umar narrated that the Prophet ﷺ said: "Every intoxicant is unlawful." (***Sahīh***)

[He said:] There are narrations on this topic from 'Umar, 'Alī, Ibn Mas'ūd, [Anas], Abū Sa'eed, Abū Mūsā, Al-Ashajj Al-'Asrī, Dailam, Maimūnah, 'Āishah, Ibn 'Abbās, Qais bin Sa'd, An-Nu'mān bin Bashīr, Mu'āwiyah, 'Abdullāh bin Mughaffal, Umm Salamah, Buraidah, Abū Hurairah, Wā'il bin Hujr, and Qurrah Al-Muzanī.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan*. Similar was reported from

١٨٦٤ - حَدَّثَنَا عُبَيْدُ بْنُ أَسْبَاطِ بْنِ مُحَمَّدٍ الْقُرَشِيُّ [الْكُوفِيُّ] وَأَبُو سَعِيدٍ الْأَشَجُّ قَالَا: حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنِ ابْنِ عُمَرَ قَالَ: سَمِعْتُ النَّبِيَّ ﷺ يَقُولُ: «كُلُّ مُسْكِرٍ حَرَامٌ».

[قَالَ:] وَفِي الْبَابِ عَنْ عُمَرَ وَعَلِيٍّ وَابْنِ مَسْعُودٍ [وَأَنَسٍ] وَأَبِي سَعِيدٍ وَأَبِي مُوسَى وَالْأَشَجِّ الْعَصْرِيِّ وَدَيْلَمَ وَمَيْمُونَةَ وَعَائِشَةَ وَابْنِ عَبَّاسٍ وَقَيْسِ بْنِ سَعْدٍ وَالنُّعْمَانِ بْنِ بَشِيرٍ وَمُعَاوِيَةَ وَعَبْدِ اللهِ بْنِ مُغَفَّلٍ وَأُمِّ سَلَمَةَ وَبُرَيْدَةَ

[1] A drink prepared from honey.

وأَبِي هُرَيْرَةَ ووَائِلِ بْنِ حُجْرٍ وقُرَّةَ الْمُزَنِيِّ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ. وقَدْ رُوِيَ عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوُهُ. وكِلَاهُمَا صَحِيحٌ. وَرَوَىٰ غَيْرُ وَاحِدٍ عَنْ مُحَمَّدِ بْنِ عَمْرٍو، عَنْ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ ﷺ نَحْوَهُ. وعَنْ أَبِي سَلَمَةَ، عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ ﷺ.

Abū Salamah, from Abū Hurairah, from the Prophet ﷺ. Both of these are *Ṣaḥīḥ*. More than one narrator reported similarly from Muḥammad bin 'Amr, from Abū Salamah, from Abū Hurairah, from the Prophet ﷺ, and from Abū Salamah, from Ibn 'Umar, from the Prophet ﷺ.

تخريج: [صحيح] وأخرجه ابن ماجه، الأشربة، باب كل مسكر حرام، ح:٣٣٩٠ والنسائي، ح:٥٥٩٠ من حديث محمد بن عمرو الليثي به وسنده حسن وهو من الأحاديث المتواترة * وفي الباب عن عمر [أبو يعلى:١/٢١٣، ح:٢٤٨] وعلي [ابن عدي:٢/٧٦٧] وابن مسعود [ابن ماجه، ح:٣٣٨٨، ٣٤٠٦] وأنس [أحمد:٣/١١٢، ١١٩، ١٥٤] وأبي سعيد [أحمد:٣/٦٣، ٦٦] وأبي موسى [البخاري، ح:٤٣٤٤ ومسلم، ح:١٧٣٣] والأشج العصري [ابن أبي عاصم في الأحاد والمثاني:٣/٢٦٦، ح:١٦٤٤] وديلم [أبو داود، ح:٣٦٨٣] وميمونة [أحمد: ــــ وابن عباس [أبو داود، ح:٣٦٨٠] وقيس بن سعد [أحمد:٣/٤٢٢] والنعمان بن بشير [أبو داود، ح:٣٦٧٦] ومعاوية [ابن ماجه، ح:٣٣٨٩] ووائل بن حجر [ابن عدي:٦/٢١٦٦] وقرة المزني [البزار (كشف الأستار):٣/٣٤٩، ٣٥٠، ح:٢٩١٤] وعبدالله بن المغفل [أحمد:٤/٨٧ نحو المعنى] وأم سلمة [أبو داود، ح:٣٦٨٦] وبريدة [يأتي:١٨٦٩] وأبي هريرة [النسائي، ح:٥٥٩١] وعائشة [البخاري، ح:٢٤٢ ومسلم، ح:٢٠٠١].

(المعجم ٣) - بَابُ [مَا جَاءَ] مَا أَسْكَرَ كَثِيرُهُ فَقَلِيلُهُ حَرَامٌ (التحفة ٣)

Chapter 3. (What Has Been Related About) Whatever ALot Of It Intoxicates, A Little Of It Is Unlawful

١٨٦٥ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ؛ ح: وحَدَّثَنَا عَلِيُّ بْنُ حُجْرٍ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ جَعْفَرٍ عَنْ دَاوُدَ بْنِ بَكْرِ بْنِ أَبِي الفُرَاتِ، عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ، عَنْ جَابِرِ ابْنِ عَبْدِ اللهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «مَا أَسْكَرَ كَثِيرُهُ فَقَلِيلُهُ حَرَامٌ».

قَالَ: وفِي الْبَابِ عَنْ سَعْدٍ وَعَائِشَةَ وعَبْدِ اللهِ بْنِ عَمْرٍو وابْنِ عُمَرَ وخَوَّاتِ بْنِ جُبَيْرٍ.

1865. Jābir bin 'Abdullāh narrated that the Messenger of Allāh ﷺ said: "Whatever a lot of it intoxicates, a little of it is unlawful." (***Ḥasan***)

He said: There are narrations on this topic from Sa'd, 'Āishah, 'Abdullāh bin 'Amr, Ibn 'Umar, and Khawwāt bin Jubair.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Gharīb* as a narration of Jābir.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ مِنْ حَدِيثِ جَابِرٍ.

تخريج: [إسناده حسن] وأخرجه ابو داود، الأشربة، باب ما جاء في السكر، ح:٣٦٨١ عن قتيبة وابن ماجه، ح:٣٣٩٣ من حديث داود بن بكر به وصححه ابن الجارود، ح:٨٦٠ وله طريق آخر عند ابن حبان (الإحسان):٧/ ٣٧٩، ح:٥٣٥٨ * وفي الباب عن سعد [النسائي، ح:٥٦١٢] وعائشة [يأتي:١٨٦٦] وعبدالله بن عمرو [ابن ماجه، ح:٣٣٩٤] وابن عمر [ابن ماجه، ح:٣٣٩٢] وخوات بن جبير [الطبراني في الكبير:٤/ ٢٠٥، ح:٤١٤٩].

Comments:

The purport of the *Ḥadīth* determines that, if a great quantity of a beverage has the capacity to intoxicate a person, it is unlawful to consume even a small quantity of it. This is the view held by the vast majority of the scholars of religion.

1866. 'Āishah narrated that the Messenger of Allāh ﷺ said: "Every intoxicant is unlawful. Whatever a *Faraq*[1] of it intoxicates, then a handful of it is unlawful." (***Hasan***)

[Abū 'Eīsā said:] One of them said in his *Ḥadīth*: "A sip of it is unlawful."

[He said:] This *Ḥadīth* is *Ḥasan*. Laith bin Abī Sulaim and Ar-Rabī' bin Ṣabīḥ reported similar to the narration of Mahdī bin Maimūn from Abū 'Uthmān Al-Anṣārī. Abū 'Uthmān Al-Anṣārī's (a narrator in this chain) name is 'Amr bin Sālim, and they say: "Umar bin Sālim" [as well].

١٨٦٦ - **حَدَّثَنَا** مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا عَبْدُ الأَعْلَى بْنُ عَبْدِ الأَعْلَى عَنْ هِشَامِ بْنِ حَسَّانَ، عَنْ مَهْدِيِّ بْنِ مَيْمُونٍ؛ ح: وحَدَّثَنَا عَبْدُ اللهِ بْنُ مُعَاوِيَةَ الجُمَحِيُّ عَنْ مَهْدِيِّ بْنِ مَيْمُونٍ - المَعْنَى وَاحِدٌ - عَنْ أَبِي عُثْمَانَ الأَنْصَارِيِّ، عَنِ القَاسِمِ بْنِ مُحَمَّدٍ، عَنْ عَائِشَةَ قَالَتْ: قَالَ رَسُولُ اللهِ ﷺ: «كُلُّ مُسْكِرٍ حَرَامٌ، مَا أَسْكَرَ الْفَرَقُ مِنْهُ فَمِلْءُ الكَفِّ مِنْهُ حَرَامٌ».

[قَالَ أَبُو عِيسَى:] قَالَ أَحَدُهُمَا فِي حَدِيثِهِ: الحَسْوَةُ مِنْهُ حَرَامٌ.

[قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ. قَدْ رَوَاهُ لَيْثُ ابْنُ أَبِي سُلَيْمٍ والرَّبِيعُ بْنُ صَبِيحٍ عَنْ أَبِي عُثْمَانَ الأَنْصَارِيِّ نَحْوَ رِوَايَةِ مَهْدِيِّ بْنِ مَيْمُونٍ. وأَبُو عُثْمَانَ الأَنْصَارِيُّ اسْمُهُ عَمْرُو ابْنُ سَالِمٍ ويُقَالُ: عُمَرُ بْنُ سَالِمٍ [أَيْضًا].

[1] " '*Farq*' is a measurement weighing about sixteen *Raṭl*, and they say it is '*Faraq*' which is one hundred and twenty *Raṭl*." (*Tuḥfat Al-Aḥwadhī*). Today's *Raṭl* is anywhere between 500 plus grams, to 3 plus kilograms.

تخريج: [إسناده حسن] وأخرجه أبو داود، الأشربة، باب ما جاء في السكر، ح:٣٦٨٧ من حديث مهدي بن ميمون به وصححه ابن الجارود، ح:٨٦١ وابن حبان، ح:١٣٨٨.

Comments:

The *Hadīth* confirms that regardless of whether a small quantity of an intoxicant does or does not intoxicate it is unlawful to consume it.

Chapter 4. What Has Been Related About *Nabīdh* Prepared In Earthenware Containers

(المعجم ٤) - بَابُ مَا جَاءَ فِي نَبِيذِ الْجَرِّ (التحفة ٤)

1867. Sulaimān At-Taimī narrated from Ṭāwus, that a man came to Ibn 'Umar and said: "Did the Messenger of Allāh ﷺ prohibit *Nabīdh* prepared in earthenware vessels?" He said: "Yes." So Ṭāwus said: "I heard that from him, by Allāh." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn Abī Awfā, Abū Sa'eed, Suwaid, 'Āishah, Ibn Az-Zubair, and Ibn 'Abbās.

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Ṣaḥīh*.

١٨٦٧ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا ابْنُ عُلَيَّةَ ويَزِيدُ بْنُ هَارُونَ قَالَا: أَخْبَرَنَا سُلَيْمَانُ التَّيْمِيُّ عَنْ طَاوُسٍ أَنَّ رَجُلًا أَتَى ابْنَ عُمَرَ فَقَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنْ نَبِيذِ الْجَرِّ؟ فَقَالَ: نَعَمْ.

فَقَالَ طَاوُسٌ: وَاللهِ إِنِّي سَمِعْتُهُ مِنْهُ.

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ أَبِي أَوْفَى وأَبِي سَعِيدٍ وسُوَيْدٍ وعَائِشَةَ وابْنِ الزُّبَيْرِ وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الأشربة، باب النهي عن الانتباذ في المزفت والدباء والحنتم والنقير ... إلخ، ح:١٩٩٧/ ٥٠ من حديث إسماعيل ابن علية به * وفي الباب عن ابن أبي أوفى [البخاري، ح:٥٥٩٦] وأبي سعيد [يأتي:١٨٧٧] وسويد (بن مقرن) [أحمد:٣/ ٤٤٧، ٥/ ٤٤٤] وعائشة [ابن ماجه، ح:٣٤٠٧] وابن الزبير [النسائي، ح:٥٦٢١] وابن عباس [مسلم، ح:١٩٩٧].

Comments:

The name *Nabīdh* is applied to a preparation of dates, raisins, honey, barley or other grains if soaked in water in a vessel, and left there until its taste and sweetness pervades the water, but before it turns into an intoxicant.

Chapter 5. What Has Been Related About It Is Disliked To Prepare *Nabīdh* In *Ad-Dubbā'*, *An-Naqīr*, And *Al-Ḥantam*[1]

(المعجم ٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ أَنْ يُنْبَذَ فِي الدُّبَّاءِ وَالنَّقِيرِ وَالْحَنْتَمِ (التحفة ٥)

1868. Zādhān said: "I asked Ibn 'Umar about what containers the Messenger of Allāh ﷺ prohibited. He informed us in your language, and he explained it to us in our language. He said: 'The Messenger of Allāh ﷺ prohibited *Al-Ḥantamah*, and it is an earthenware container, and he prohibited *Ad-Dubbā'*, and it is a gourd, and he prohibited *An-Naqīr*, and it is the trunk of a date-palm that is hollowed out or carved, and he prohibited *Al-Muzaffat*, and it is coated with pitch. And he ordered that *Nabīdh* be prepared in water-skins.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from 'Umar, 'Alī, Ibn 'Abbās, Abū Sa'eed, Abū Hurairah, 'Abdur-Raḥmān bin Ya'mur, Samurah, Anas, 'Āishah, 'Imrān bin Ḥuṣain, 'Ā'idh bin 'Amr, Al-Ḥakam Al-Ghifārī, and Maimūnah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٦٨ - حَدَّثَنَا أَبُو مُوسَى مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا أَبُو دَاوُدَ الطَّيَالِسِيُّ: حَدَّثَنَا شُعْبَةُ عَنْ عَمْرِو بْنِ مُرَّةَ قَالَ: سَمِعْتُ زَاذَانَ يَقُولُ: سَأَلْتُ ابْنَ عُمَرَ عَمَّا نَهَى عَنْهُ رَسُولُ اللهِ ﷺ مِنَ الْأَوْعِيَةِ وَأَخْبِرْنَاهُ بِلُغَتِكُمْ وَفَسِّرْهُ لَنَا بِلُغَتِنَا، فَقَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ الْحَنْتَمَةِ وهِيَ الْجَرَّةُ، ونَهَى عَنِ الدُّبَّاءِ وهِيَ الْقَرْعَةُ، ونَهَى عَنِ النَّقِيرِ وَهُوَ أَصْلُ النَّخْلِ يُنْقَرُ نَقْرًا أَوْ يُنْسَجُ نَسْجًا، ونَهَى عَنِ الْمُزَفَّتِ وَهِيَ الْمُقَيَّرُ، وَأَمَرَ أَنْ يُنْتَبَذَ فِي الْأَسْقِيَةِ.

[قَالَ:] وفِي الْبَابِ عَنْ عُمَرَ وَعَلِيٍّ وابْنِ عَبَّاسٍ وأَبِي سَعِيدٍ وأَبِي هُرَيْرَةَ وعَبْدِ الرَّحْمٰنِ بْنِ يَعْمُرَ وسَمُرَةَ وأَنَسٍ وَعَائِشَةَ وعِمْرَانَ بْنِ حُصَيْنٍ وعَائِذِ بْنِ عَمْرٍو والْحَكَمِ الغِفَارِيِّ ومَيْمُونَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، أيضًا، ح:١٩٩٧/٥٧ من حديث شعبة به وهو في مسند الطيالسي، ح:١٩٣٩ نحو المعنٰى * وفي الباب عن عمر [أحمد:١/٢٧] وعلي [البخاري، ح:٥٥٩٤ ومسلم، ح:١٩٩٤] وابن عباس [البخاري، ح:٥٣ ومسلم، ح:١٩٩٧] وأبي سعيد [مسلم، ح:١٩٩٦] وأبي هريرة [ابن ماجه، ح:٣٤٠١] وعبدالرحمن بن يعمر [الترمذي في العلل:٥/ ٧٦١ وابن ماجه، ح:٣٤٠٤] وسمرة (ابن جندب) [أحمد:٥/١٧] وأنس [البخاري، ح:٥٥٨٧ ومسلم، ح:١٩٩٢، ١٩٩٣] وعائشة [البخاري، ح:٥٥٩٥ ومسلم، ح:١٩٩٥] وعمران بن حصين [أحمد:٤/٤٤٧

[1] *Ad-Dubbā'* is the gourd container, *Al-Muzaffat* is a bowl coated with pitch, *Al-Ḥantam* is a type of earthenware vessel whose description is obscure, and *An-Naqīr* is a piece of date-palm trunk hollowed into a bowl.

والنسائي، ح:٥١٩٠] وعائذ بن عمرو [أحمد:٥/ ٦٤، ٦٥] والحكم الغفاري [أحمد: ٤/ ٢١٣] وميمونة [أحمد: ٣٣٢، ٣٣٣].

Comments:

Wine was like breath and soul for the Arabs' daily life, and they usually prepared the beverage in the four containers named in the *Hadīth*. After the prohibition of the alcoholic drinks was promulgated, the Messenger of Allāh ﷺ even forbade them to use those containers for preparing *Nabīdh* because these containers absorb the liquid which, after some time will ferment and make whatever it is used for afterwards intoxicating.

Chapter 6. What Has Been Related Permitting That *Nabīdh* Be Prepared In Containers

(المعجم ٦) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ أَنْ يُنْتَبَذَ فِي الظُّرُوفِ (التحفة ٦)

1869. Sulaimān bin Buraidah narrated from his father, that the Messenger of Allāh ﷺ said: "I had indeed forbidden you from using containers, but the container does not make anything lawful nor unlawful, rather every intoxicant is unlawful." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*.

١٨٦٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ وَالْحَسَنُ ابْنُ عَلِيٍّ وَمَحْمُودُ بْنُ غَيْلَانَ قَالُوا: حَدَّثَنَا أَبُو عَاصِمٍ: حَدَّثَنَا سُفْيَانُ عَنْ عَلْقَمَةَ بْنِ مَرْثَدٍ، عَنْ سُلَيْمَانَ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنِّي كُنْتُ نَهَيْتُكُمْ عَنِ الظُّرُوفِ، وإِنَّ ظَرْفًا لَا يُحِلُّ شَيْئًا وَلَا يُحَرِّمُهُ، وَكُلُّ مُسْكِرٍ حَرَامٌ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، الجنائز، باب استئذان النبي ﷺ ربه - عزوجل - في زيارة قبر أمه، ح:٩٧٧ من حديث أبي عاصم النبيل به.

Comments :

When the prohibition of wine became a matter of common knowledge and the dislike and hatred for it delved deep into the hearts of the people, and there remained no fear or doubt that the use of those containers would rekindle a desire for wine, and when the people had the realization that even *Nabīdh* might in certain cases become intoxicant, the Prophet ﷺ permitted the use of those containers with the condition that even *Nabīdh*, if it acquires intoxicating property, would be prohibited.

1870. Jābir bin 'Abdullāh narrated: "The Messenger of Allāh ﷺ prohibited using (certain) containers. So the *Anṣār* complained about that to him. They said: 'We will have no vessels!' So he said: 'If so then use them.'" (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Ibn Mas'ūd, Abū Hurairah, Abū Sa'eed, and 'Abdullāh bin 'Amr.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٧٠ - حَدَّثَنَا مَحْمُودُ بْنُ غَيْلَانَ: حَدَّثَنَا أَبُو دَاوُدَ الحَفَرِيُّ عَنْ سُفْيَانَ، عَنْ مَنْصُورٍ، عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ قَالَ: نَهَى رَسُولُ اللهِ ﷺ عَنِ الظُّرُوفِ، فَشَكَتْ إِلَيْهِ الْأَنْصَارُ، فَقَالُوا: لَيْسَ لَنَا وِعَاءٌ، قَالَ: «فَلَا إِذَنْ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ مَسْعُودٍ وأَبِي هُرَيْرَةَ وأَبِي سَعِيدٍ وعَبْدِ اللهِ بْنِ عَمْرٍو.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [صحيح] وأخرجه البخاري، الأشربة، باب ترخيص النبي ﷺ في الأوعية والظروف بعد النهي، ح:٥٥٩٢ من حديث سفيان الثوري به "فلا إذن" أي فلا إذًا * وفي الباب عن ابن مسعود [ابن ماجه، ح:٣٤٠٦] وأبي هريرة [مسلم، ح:١٩٩٣] وأبي سعيد [مسلم، ح:١٨ وابن حبان، ح:١٣٩١] وعبدالله بن عمرو [البخاري، ح:٥٥٩٣ ومسلم، ح:٢٠٠٠].

Chapter 7. What Has Been Related About Preparing *Nabīdh* In A Water-Skin

(المعجم ٧) - بَابُ مَا جَاءَ [فِي الْانْتِبَاذِ] فِي السِّقَاءِ (التحفة ٧)

1871. 'Āishah said: "We would prepare *Nabīdh* for the Messenger of Allāh ﷺ in a water-skin which was fastened at the top and it had a small hole.[1] We would prepare *Nabīdh* in it during the morning, and drink it during the evening. And we would prepare *Nabīdh* in it during the evening and drink it during the morning." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Abū Sa'eed, and Ibn 'Abbās.

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*, we do not know of it as a

١٨٧١ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا عَبْدُ الوَهَّابِ الثَّقَفِيُّ عَنْ يُونُسَ بْنِ عُبَيْدٍ، عَنِ الْحَسَنِ الْبَصرِيِّ، عَنْ أُمِّهِ، عَنْ عَائِشَةَ قَالَتْ: كُنَّا نَنْبِذُ لِرَسُولِ اللهِ ﷺ فِي سِقَاءٍ يُوكَأُ فِي أَعْلَاهُ، لَهُ عَزْلَاءُ نَنْبِذُهُ غُدْوَةً وَيَشْرَبُهُ عِشَاءً، وَنَنْبِذُهُ عِشَاءً وَيَشْرَبُهُ غُدْوَةً.

[قَالَ:] وفِي الْبَابِ عَنْ جَابِرٍ وأَبِي سَعِيدٍ وابْنِ عَبَّاسٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ لَا نَعْرِفُهُ مِنْ حَدِيثِ يُونُسَ بْنِ عُبَيْدٍ إِلَّا مِنْ هٰذَا

[1] *'Azlā'*: A small hole, probably with a stopper or plug, at the bottom to drink from it. See *Tuhfat Al-Aḥwadhī*.

narration of Yūnus bin 'Ubaid except through this route. This *Ḥadīth* has also been reported though routes other than this from 'Āishah.

الْوَجْهِ. وقَدْ رُوِيَ هٰذَا الحَدِيثُ مِنْ غيْرِ هٰذَا الوَجْهِ عَنْ عَائِشَةَ أَيْضًا.

تخريج: وأخرجه مسلم، الأشربة، باب إباحة النبيذ الذي لم يشتد ولم يصر مسكرًا، ح:٢٠٠٥ عن محمد بن المثنى به * وفي الباب عن جابر [مسلم، ح:١٩٩٨، ١٩٩٩] وأبي سعيد [مسلم، ح:١٨] وابن عباس [مسلم، ح:٢٠٠٤].

Comments:

There is unanimity of opinion about the lawfulness of *Nabīdh* provided that it has no intoxicating capacity.

Chapter 8. What Has Been Related About Grains (And Berries) From Which *Khamr* Is Derived

(المعجم ٨) - بَابُ مَا جَاءَ فِي الْحُبُوبِ الَّتِي يُتَّخَذُ مِنْهَا الْخَمْرُ (التحفة ٨)

1872. An-Nu'mān bin Bashīr narrated that the Messenger of Allāh ﷺ said: "Indeed *Khamr* comes from wheat, *Khamr* comes from barely, *Khamr* comes from dates, *Khamr* comes from raisins, and *Khamr* comes from honey." (***Ḥasan***)

[He said:] There are narrations on this topic from Abū Huriarah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Gharīb*.

١٨٧٢ - **حَدَّثَنَا** مُحَمَّدُ بْنُ يَحْيَى: حَدَّثَنَا مُحَمَّدُ بْنُ يُوسُفَ: حَدَّثَنَا إِسْرَائِيلُ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ مُهَاجِرٍ عَنْ عَامِرٍ الشَّعْبِيِّ، عَنِ النُّعْمَانِ بْنِ بَشِيرٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «إِنَّ مِنَ الْحِنْطَةِ خَمْرًا، ومِنَ الشَّعِيرِ خَمْرًا، ومِنَ التَّمْرِ خَمْرًا، ومِنَ الزَّبِيبِ خَمْرًا، ومِنَ الْعَسَلِ خَمْرًا».

[قَالَ:] وفِي الْبَابِ عَنْ أَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ غَرِيبٌ.

تخريج: **[حسن]** وأخرجه أبو داود، الأشربة، باب الخمر مما هي؟، ح:٣٦٧٦ من حديث إسرائيل به * إبراهيم بن المهاجر وثقه الجمهور وتابعه أبوحريز عبدالله بن الحسين وللحديث شواهد * وفي الباب عن أبي هريرة [يأتي:١٨٧٥].

1873. 'Umar said: "Indeed *Khamr* comes from wheat." And he mentioned this *Ḥadīth*. (***Ḥasan***)

١٨٧٣ - **حَدَّثَنَا** الْحَسَنُ بْنُ عَلِيٍّ الْخَلَّالُ: حَدَّثَنَا يَحْيَى بْنُ آدَمَ عَنْ إِسْرَائِيلَ نَحْوَهُ وروَى أَبُو حَيَّانَ التَّيْمِيُّ هٰذَا الْحَدِيثَ عَنِ الشَّعْبِيِّ، عَنِ ابْنِ عُمَرَ، عَنْ عُمَرَ قَالَ: «إِنَّ مِنَ الْحِنْطَةِ خَمْرًا» فَذَكَرَ هٰذَا الْحَدِيثَ.

تخريج: [حسن] انظر الحديث السابق.

1874. 'Umar bin Al-Khattāb said: "Indeed *Khamr* comes from wheat." (*Sahīh*)

[After mentioning this, he said:] and this is more correct than the narration of Ibrāhīm bin Muhājir (no. 1872). 'Alī bin Al-Madīnī said: "Yahya bin Sa'eed said: 'Ibrāhīm bin Al-Muhājir is not strong [in *Hadīth*].'" And it has also been reported through other routes from Ash-Sha'bī, from An-Nu'mān bin Bashīr.

١٨٧٤ - **أَخْبَرَنَا** بِذَلِكَ أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ إِدْرِيسَ عَنْ أَبِي حَيَّانَ التَّيْمِيِّ، عَنِ الشَّعْبِيِّ، عَنِ ابْنِ عُمَرَ، عَنْ عُمَرَ بْنِ الْخَطَّابِ: إِنَّ مِنَ الْحِنْطَةِ خَمْرًا [بِهٰذَا] وهٰذَا أَصَحُّ مِنْ حَدِيثِ إِبْرَاهِيمَ بْنِ مُهَاجِرٍ. وقَالَ عَلِيُّ بْنُ المَدِينِيِّ قَالَ يَحْيَى ابْنُ سَعِيدٍ: لَمْ يَكُنْ إِبْرَاهِيمُ بْنُ المُهَاجِرِ بِالْقَوِيِّ [فِي الحَدِيثِ وقَدْ رَوَى مِنْ غَيْرِ وَجْهٍ أَيْضًا عَنِ الشَّعْبِيِّ، عَنِ النُّعْمَانِ بْنِ بَشِيرٍ].

تخريج: متفق عليه، وأخرجه، البخاري، التفسير، باب قوله: ﴿إنما الخمر والميسر والأنصاب والأزلام رجس من عمل الشيطان﴾، ح:٤٦١٩ ومسلم، ح:٣٠٣٢ من حديث عبدالله ابن إدريس به.

Comments:

The *Hadīth* proves that *Khamr* does not come only from grapes but from several other things as well, and they also fall under the definition of *Khamr* (wine).

1875. Abū Kathīr As-Suhaimī narrated that he heard Abū Hurairah saying that the Messenger of Allāh ﷺ said: "*Khamr* comes from these two trees (plants): The datepalm, and the grape (vine)." (*Sahīh*)

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Sahīh*. Abū Kathīr As-Suhaimī is Al-Ghubarī, and his name is Yazīd bin 'Abdur-Rahmān bin Ghufailah [and Shu'bah reported this *Hadīth* from 'Ikrimah bin 'Ammār].

١٨٧٥ - **حَدَّثَنَا** أَحْمَدُ بْنُ مُحَمَّدٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ المُبَارَكِ: حَدَّثَنَا الأَوْزَاعِيُّ وعِكْرِمَةُ بْنُ عَمَّارٍ قَالاَ: حَدَّثَنَا أَبُو كَثِيرٍ السُّحَيْمِيُّ قَالَ: سَمِعْتُ أَبَا هُرَيْرَةَ يَقُولُ: قَالَ رَسُولُ اللهِ ﷺ: «الْخَمْرُ مِنْ هَاتَيْنِ الشَّجَرَتَيْنِ: النَّخْلَةِ وَالْعِنَبَةِ».

[**قَالَ أَبُو عِيسَى**:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ. وأَبُو كَثِيرٍ السُّحَيْمِيُّ هُوَ الغُبَرِيُّ واسْمُهُ يَزِيدُ بْنُ عَبْدِ الرَّحْمٰنِ بْنِ غُفَيْلَةَ [ورَوَى شُعْبَةُ عَنْ عِكْرِمَةَ بْنِ عَمَّارٍ هٰذَا الْحَدِيثَ].

تخريج: وأخرجه مسلم، الأشربة، باب بيان أن جميع ما ينبذ مما يتخذ من النخل والعنب، يسمى خمرًا، ح:١٩٨٥/ ١٤ من حديث الأوزاعي به.

Comments:

The wealthy and well-to-do usually prepare their wine from these two, while the common people did it from many other substances. However, the best and the most pungent wines were only prepared from these two.

Chapter 9. What Has Been Related About Mixing Unripe Dates And Dates

(المعجم ٩) - بَابُ مَا جَاءَ فِي خَلِيطِ الْبُسْرِ وَالتَّمْرِ (التحفة ٩)

1876. Jābir bin 'Abdullāh narrated: "The Messenger of Allāh ﷺ prohibited making *Nabīdh* from unripend dates and fresh dates together." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٧٦ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا اللَّيْثُ بْنُ سَعْدٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنْ جَابِرِ بْنِ عَبْدِ اللهِ: أَنَّ رَسُولَ اللهِ ﷺ نَهَى أَنْ يُنْتَبَذَ الْبُسْرُ وَالرُّطَبُ جَمِيعًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الأشربة، باب كراهة انتباذ التمر والزبيب مخلوطين، ح:١٩٨٦ عن قتيبة والبخاري، ح:٥٦٠١ من حديث عطاء بن أبي رباح به.

Comments:

The main reason behind prohibiting mixing certain substances to prepare *Nabīdh* is the fact that putting them together hastens their fermentation. That is why, as a precautionary measure, like in the case of certain containers, the Messenger of Allāh ﷺ also prohibited the above mentioned formula for preparing *Nabīdh*, although he allowed the use of each of these ingredients separately for the purpose.

1877. Abū Sa'eed narrated: "The Prophet ﷺ prohibited mixing of unripe dates and dates, and mixing of raisins and dates (for making *Nabīdh*), and he prohibited the jars that *Nabīdh* is made in." (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Anas. Jābir, Abū Qatādah, Ibn 'Abbās, Umm Salamah, and Ma'bad bin Ka'b from his mother.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٧٧ - حَدَّثَنَا سُفْيَانُ بْنُ وَكِيعٍ: حَدَّثَنَا جَرِيرٌ عَنْ سُلَيْمَانَ التَّيْمِيِّ، عَنْ أَبِي نَضْرَةَ، عَنْ أَبِي سَعِيدٍ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ الْبُسْرِ وَالتَّمْرِ أَنْ يُخْلَطَ بَيْنَهُمَا، وَعَنِ الزَّبِيبِ وَالتَّمْرِ أَنْ يُخْلَطَ بَيْنَهُمَا، وَنَهَى عَنِ الْجِرَارِ أَنْ يُنْتَبَذَ فِيهَا.

[قَالَ:] وفِي الْبَابِ عَنْ أَنَسٍ وَجَابِرٍ وأَبِي قَتَادَةَ وابْنِ عَبَّاسٍ وأُمِّ سَلَمَةَ وَمَعْبَدِ بْنِ كَعْبٍ عَنْ أُمِّهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، أيضًا، ح:١٩٨٧ من حديث سليمان التيمي به * وفي الباب عن أنس [أحمد:٣/ ١٣٤، ١٤٠، ٢١٠، ٢٥١] وجابر [تقدم:١٨٧٦] وأبي قتادة [البخاري، ح:٥٦٠٢ ومسلم، ح:١٩٨٨ ومالك في الموطأ:٢/ ٨٤٤] وابن عباس [مسلم، ح:١٩٩٧] وأم سلمة [أبو داود، ح:٣٧٠٦ وأحمد:٦/ ٢٩٢] ومعبد بن كعب عن أمه [أحمد:٦/ ١٨ والحميدي، ح:٣٥٧].

Chapter 10. What Has Been Related About It Being Disliked To Drink From Gold And Silver Vessels

(المعجم ١٠) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ الشُّرْبِ فِي آنِيَةِ الذَّهَبِ وَالْفِضَّةِ

(التحفة ١٠)

1878. Shu'bah bin Al-Ḥakam narrated: "I heard Ibn Abī Lailā narrating that Ḥudhaifah asked for water, so someone brought him a vessel made from silver. He threw it, and said: 'I have indeed forbade him, but he refused to stop! Indeed the Messenger of Allāh ﷺ prohibited drinking from silver and gold vessels, and from wearing silk and *Dībāj*, and he ﷺ said: "It is for them in this world, and for you in the Hereafter." (***Ṣaḥīḥ***)

[He said:] There are narrations on this topic from Umm Salamah, Al-Barā', and 'Āishah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٧٨ - حَدَّثَنَا بُنْدَارٌ [مُحَمَّدُ بْنُ بَشَّارٍ]: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ: حَدَّثَنَا شُعْبَةُ عَنِ الْحَكَمِ قَالَ: سَمِعْتُ ابْنَ أَبِي لَيْلَى يُحَدِّثُ أَنَّ حُذَيْفَةَ اسْتَسْقَى فَأَتَاهُ إِنْسَانٌ بِإِنَاءٍ مِنْ فِضَّةٍ فَرَمَاهُ بِهِ وقَالَ: إِنِّي كُنْتُ قَدْ نَهَيْتُهُ فَأَبَى أَنْ يَنْتَهِيَ، إِنَّ رَسُولَ اللهِ ﷺ نَهَى عَنِ الشُّرْبِ في آنِيَةِ الفِضَّةِ والذَّهَبِ ولُبْسِ الْحَرِيرِ والدِّيبَاجِ وقَالَ: «هِيَ لَهُمْ في الدُّنْيَا وَلَكُمْ فِي الْآخِرَةِ».

[قَالَ:] وفِي الْبَابِ عَنْ أُمِّ سَلَمَةَ والبَرَاءِ وعَائِشَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، اللباس والزينة، باب تحريم استعمال إناء الذهب والفضة على الرجال والنساء ... إلخ، ح:٢٠٦٧ عن محمد بن بشار والبخاري، ح:٥٨٣١ من حديث شعبة به * وفي الباب عن أم سلمة [البخاري، ح:٥٦٣٤ ومسلم، ح:٢٠٦٥] والبراء [البخاري، ح:١٢٣٩ ومسلم، ح:٢٠٦٦] وعائشة [ابن ماجه، ح:٣٤١٥].

Comments:

Eating and drinking from gold and silver vessels as well as wearing silk and *Dībāj* (for men) smacks of propensity for ostentation, self-pride and a desire to make a show of one's wealth and opulence. Hence the prohibition.

Chapter 11. What Has Been Related About The Prohibition Of Drinking While Standing

(المعجم ١١) - بَابُ مَا جَاءَ فِي النَّهْيِ، عَنِ الشُّرْبِ قَائِمًا (التحفة ١١)

1879. Qatādah narrated from Anas: "The Prophet ﷺ prohibited that a man should drink while standing." (Qatādah said:) So it was said: "And eating?" He (Anas) said: "That is worse." ***(Saḥīḥ)***

[Abū 'Eīsā said:] This *Ḥadīth* is [*Ḥasan*] *Ṣaḥīḥ*.

١٨٧٩ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ عَنْ سَعِيدِ [بْنِ أَبِي عَرُوبَةَ]، عَنْ قَتَادَةَ، عَنْ أَنَسٍ: أَنَّ النَّبِيَّ ﷺ نَهَى أَنْ يَشْرَبَ الرَّجُلُ قَائِمًا. فَقِيلَ: الْأَكْلُ؟ قَالَ: «ذَاكَ أَشَدُّ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ [حَسَنٌ] صَحِيحٌ.

تخريج: وأخرجه مسلم، الأشربة، باب: في الشرب قائمًا، ح:٢٠٢٤ من حديث سعيد بن أبي عروبة به.

Comments:

It was the constant habit of the Messenger of Allāh ﷺ to eat while sitting. He even forbade others to eat or drink while standing. There is, therefore, no sanction for eating while standing ﷺ, as is a common sight in public these days.

1881. Al-Jārūd bin Al-'Alā' narrated: "The Prophet ﷺ prohibited drinking while standing." ***(Saḥīḥ)***

And there are narrations on this topic from Abū Sa'eed, Abū Hurairah, and Anas. And this *Ḥadīth* is *Ḥasan Gharīb*. This *Ḥadīth* was reported from other narrators, from Sa'eed, from Qatādah, from Abū Muslim, from Al-Jārūd, that the Prophet ﷺ said: "The Muslim's wandering (animal) stirs the Fire."'[1] Al-Jārūd bin Al-Mu'allā is called Ibn Al-'Alā' but what is correct is Al-Mu'allā.

١٨٨١ - حَدَّثَنَا حُمَيْدُ بْنُ مَسْعَدَةَ: حَدَّثَنَا خَالِدُ بْنُ الْحَارِثِ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ أَبِي مُسْلِمٍ الجَذْمِيِّ، عَنِ الجَارُودِ بْنِ العَلَاءِ: أَنَّ النَّبِيَّ ﷺ نَهَىٰ عَنِ الشُّرْبِ قَائِمًا وَفِي الْبَابِ عَنْ أَبِي سَعِيدٍ وأَبِي هُرَيْرَةَ وَأَنَسٍ. هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ وهٰكَذَا رَوَى غَيْرُ وَاحِدٍ هٰذَا الحَدِيثَ عَنْ سَعِيدٍ، عَنْ قَتَادَةَ، عَنْ أَبِي مُسْلِمٍ، عَنْ جَارُودٍ: أَنَّ النَّبِيَّ ﷺ قَالَ: «ضَالَّةُ الْمُسْلِمِ حَرْقُ النَّارِ». وَالْجَارُودُ بْنُ الْمُعَلَّى يُقَالُ: ابْنُ العَلَاءِ وَالصَّحِيحُ: ابْنُ الْمُعَلَّى.

[1] That is taking the Muslim's wandering animal may lead to Hell. *Tuḥfat Al-Aḥwadhī*.

تخريج: [صحيح] وأخرجه الطبراني في الكبير: ٢/٢٦٨، ح: ٢١٢٤ من حديث خالد بن الحارث به، سعيد هو ابن أبي عروبة والجارود هو ابن عمرو بن المعلى العبدي يكنى أبا المنذر، وللحديث شواهد عند مسلم وغيره * حديث قتادة عن يزيد بن عبدالله بن الشخير، أخرجه الطبراني: ٢/ ٢٦٥، ح: ٢١١٥ وتابعه خالد الحذاء ورواه أيوب عن يزيد عن مطرف عن أبي مسلم عن الجارود به وله طريق آخر عند ابن ماجه، ح: ٢٥٠٢ وللحديث شواهد كثيرة وهو حديث صحيح * وفي الباب عن أبي سعيد(مسلم: ٢٠٢٥).

Chapter 12. What Has Been Related About The Permission For Drinking While Standing

(المعجم ١٢) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي الشُّرْبِ قَائِمًا (التحفة ١٢)

1880. Ibn 'Umar said: "We would eat during the time of the Messenger of Allāh ﷺ while we were walking, and we would drink while we were standing." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ Gharīb* as a narration of 'Ubaidullāh bin 'Umar, from Nāfi', from Ibn 'Umar. 'Imrān bin Ḥudair reported this *Ḥadīth* from Abū Al-Bazarī, from Ibn 'Umar. Abū Al-Bazarī's name is Yazīd bin 'Uṭārid.

١٨٨٠ - حَدَّثَنَا أَبُو السَّائِبِ سَلْمُ بْنُ جُنَادَةَ بْنِ سَلْمٍ الكُوفِيُّ: حَدَّثَنَا حَفْصُ بْنُ غِيَاثٍ عَنْ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نافِعٍ، عَنِ ابْنِ عُمَرَ قَالَ: كُنَّا نَأْكُلُ عَلَى عَهْدِ رَسُولِ اللهِ ﷺ وَنَحْنُ نَمْشِي، وَنَشْرَبُ وَنَحْنُ قِيَامٌ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ مِنْ حَدِيثِ عُبَيْدِ اللهِ بْنِ عُمَرَ، عَنْ نَافِعٍ، عَنِ ابْنِ عُمَرَ، وَرَوَى عِمْرَانُ بْنُ حُدَيْرٍ هٰذَا الْحَدِيثَ عَنْ أَبِي الْبَزَرِيِّ، عَنِ ابْنِ عُمَرَ وَأَبُو الْبَزَرِيِّ اسْمُهُ يَزِيدُ بْنُ عُطَارِدٍ.

تخريج: [صحيح] وأخرجه ابن ماجه، الأطعمة، باب الأكل قائمًا، ح: ٣٣٠١ عن سلم بن جنادة به وصححه ابن حبان، ح: ١٣٦٩ وحفص بن غياث صرح بالسماع عنده.

1882. Ibn 'Abbās said: "The Prophet ﷺ drank from Zamzam while he was standing." (***Ṣaḥīḥ***)

[He said]: There are narrations on this topic from 'Alī, Sa'd, 'Abdullāh bin 'Amr, and 'Āishah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٨٢ - حَدَّثَنَا أَحْمَدُ بْنُ مَنِيعٍ: حَدَّثَنَا هُشَيْمٌ: حَدَّثَنَا عَاصِمٌ الأَحْوَلُ وَمُغِيرَةُ عَنِ الشَّعْبِيِّ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ شَرِبَ مِنْ زَمْزَمَ وَهُوَ قَائِمٌ.

[قَالَ:] وفِي الْبَابِ عَنْ عَلِيٍّ وَسَعْدٍ وعَبْدِ اللهِ بْنِ عَمْرٍو وعَائِشَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الأشربة، باب: في الشرب من زمزم قائمًا، ح:٢٠٢٧ من حديث هشيم والبخاري، ح:١٦٣٧ من حديث عاصم الأحول به * وفي الباب عن علي [البخاري، ح:٥٦١٥، ٥٦١٦] وسعد (بن أبي وقاص) [الترمذي في الشمائل، ح:٢١٤] وعبدالله ابن عمرو [يأتي:١٨٨٣] وعائشة [أحمد:٦/ ١٦١].

Comments:

Since there was a heavy rush around the well of Zamzam after circuiting the Ka'bah, and sitting was not easy, the Prophet ﷺ drank while standing in order to indicate that if it is not convenient or possible to sit down for drinking, one could drink while standing (*'Āridat Al-Aḥwadhī*, v.8, p.74). As such, as far as Zamzam is concerned, it is an established *Sunnah* to drink it while standing.

1883. 'Amr bin Shu'bah narrated from his father, from his grandfather who said: "I saw the Messenger of Allāh ﷺ drinking while standing and sitting." (***Hasan***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٨٣ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا مُحَمَّدُ بْنُ جَعْفَرٍ عَنْ حُسَيْنٍ الْمُعَلِّمِ، عَنْ عَمْرِو بْنِ شُعَيْبٍ، عَنْ أَبِيهِ، عَنْ جَدِّهِ قَالَ: رَأَيْتُ رَسُولَ اللهِ ﷺ يَشْرَبُ قَائِمًا وقَاعِدًا.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده حسن].

Chapter 13. What Has Been Related About Breathing Into The Vessel

(المعجم ١٣) - بَابُ مَا جَاءَ فِي التَّنَفُّسِ فِي الْإِنَاءِ (التحفة ١٣)

1884. Anas bin Mālik narrated that the Prophet ﷺ would breathe three times in the vessel and say: "It is more wholesome and thirst quenching." (***Ṣaḥīḥ***)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan* [*Gharīb*]. Hishām Ad-Dastawā'ī reported it from Abū 'Iṣām, from Anas. And 'Azrah bin Thābit reported it from Thumāmah, from Anas that: "The Prophet ﷺ would breathe three times in the vessel."

(Another chain) from Anas bin Mālik: "The Prophet ﷺ would

١٨٨٤ - حَدَّثَنَا قُتَيْبَةُ و يُوسُفُ بْنُ حَمَّادٍ قَالَا: حَدَّثَنَا عَبْدُ الوَارِثِ بْنُ سَعِيدٍ عَنْ أَبِي عِصَامٍ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ النَّبِيَّ ﷺ كَانَ يَتَنَفَّسُ فِي الْإِنَاءِ ثَلَاثًا ويَقُولُ: «هُوَ أَمْرَأُ وَأَرْوَى».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ [غَرِيبٌ]. وَرَوَاهُ هِشَامٌ الدَّسْتَوَائِيُّ عَنْ أَبِي عِصَامٍ، عَنْ أَنَسٍ. وَرَوَى عَزْرَةُ بْنُ ثَابِتٍ، عَنْ ثُمَامَةَ، عَنْ أَنَسٍ: أَنَّ النَّبِيَّ ﷺ كَانَ يَتَنَفَّسُ فِي الْإِنَاءِ ثَلَاثًا.

حَدَّثَنَا بُنْدَارٌ [بِذٰلِكَ]: حَدَّثَنَا عَبْدُ الرَّحْمٰنِ ابْنُ مَهْدِيٍّ: حَدَّثَنَا عَزْرَةُ بْنُ ثَابِتٍ الْأَنْصَارِيُّ عَنْ ثُمَامَةَ بْنِ أَنَسٍ، عَنْ أَنَسِ بْنِ مَالِكٍ: أَنَّ النَّبِيَّ ﷺ كَانَ يَتَنَفَّسُ فِي الْإِنَاءِ ثَلَاثًا.

[قَالَ:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

breathe three times in the vessel."

[He said:] This *Hadīth* is *Hasan Sahīh*.

تخريج: وأخرجه مسلم، الأشربة، باب كراهة التنفس في نفس الإناء واستحباب التنفس ثلاثًا خارج الإناء، ح:٢٠٢٨ من حديث عبدالوارث به * حديث هشام الدستوائي: ورواه مسلم، ح:٢٠٢٨ وحديث عزرة بن ثابت: رواه البخاري، ح:٥٦٣١ ومسلم:٢٠٢٨/١٢٢.

Comments:

"Breathe three times in the vessel" means that, while drinking from the vessel, he ﷺ used to draw the mouth away from the vessel three times and breathe outside. It is because there is a unanimous *Sahīh Hadīth* that the Messenger of Allāh ﷺ has prohibited from breathing in the vessel. The reason being that, by doing so, the foul smell of the mouth penetrates into the water or else, more often than not, the saliva finds its way into the water, which even the drinker himself would detest. Breathing outside the vessel, on the contrary, is more satisfying and healthy and pleasant for the stomach. It, moreover, as will be seen from the following *Hadīth*, makes man distinct from the animal.

١٨٨٥ - **حَدَّثَنَا** أَبُو كُرَيْبٍ: حَدَّثَنَا وَكِيعٌ عَنْ يَزِيدَ بْنِ سِنَانٍ الْجَزَرِيِّ، عَنِ ابْنٍ لِعَطَاءِ بْنِ أَبِي رَبَاحٍ، عَنْ أَبِيهِ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللهِ ﷺ: «لَا تَشْرَبُوا وَاحِدًا كَشُرْبِ الْبَعِيرِ وَلَكِنِ اشْرَبُوا مَثْنَى وَثُلَاثَ وَسَمُّوا إِذَا أَنْتُمْ شَرِبْتُمْ، وَاحْمَدُوا إِذَا أَنْتُمْ رَفَعْتُمْ».

[قَالَ **أَبُو عِيسَى**:] هٰذَا حَدِيثٌ غَرِيبٌ.

وَيَزِيدُ بْنُ سِنَانٍ الْجَزَرِيُّ هُوَ أَبُو فَرْوَةَ الرُّهَاوِيُّ.

1885. Ibn 'Abbās narrated that the Messenger of Allāh ﷺ said: "Let none of you drink all at once like the camel. But drink two or three times, mentioning Allāh's Name when you drink, and praising Him when you (finish) ." (*Da'īf*)

[Abū 'Eīsā said:] This *Hadīth* is *Gharīb*. Yazīd bin Sinān Al-Jazarī is Abū Farwah Ar-Ruhāwī.

تخريج: **[إسناده ضعيف]** * يزيد بن سنان: ضعيف وشيخه كأنه يعقوب وهو ضعيف وإلا فمجهول كما في التقريب وغيره.

Comments:

Islamic etiquette for drinking demands that we (i) drink in three breaths, released and drawn outside the vessel, and (ii) start with the recitation of *Bismillāh* and end up with *Al-hamdulillāh*.

Chapter 14. What Has Been Related About Drinking With Two Breaths

(المعجم ١٤) - بَابُ مَا ذُكِرَ فِي الشُّرْبِ بِنَفَسَيْنِ (التحفة ١٤)

1886. Ibn 'Abbās said: "When the Prophet ﷺ drank, he would breathe two times." ***(Da'īf)***

[Abū 'Eīsā said:] This *Hadīth* is *Hasan Gharīb*, we do not know of it except as a narration of Rishdīn bin Kuraib.

He said: I asked [Abū Muhammad] 'Abdullāh bin 'Abdur-Rahmān[1] about Rishdīn bin Kuraib: "Is he stronger (in narration), or Muhammad bin Kuraib?" He said: "Neither are better to me. Rishdīn bin Kuraib is preferred over them to me." He said: I asked Muhammad bin Ismā'īl about this, so he said: "Muhammad bin Kuraib is preferred over Rishdīn bin Kuraib." To me, the correct view is what Abū Muhammad 'Abdullāh bin 'Abdur-Rahmān said: Rishdīn bin Kuraib is more preferred and he is elder. He lived to see Ibn 'Abbās, and they are brothers, and they both have *Munkar* narrations in their reports."

١٨٨٦ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يونُسَ عَنْ رِشْدِينَ بْنِ كُرَيْبٍ، عَنْ أَبِيهِ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ كانَ إِذَا شَرِبَ يَتَنَفَّسُ مَرَّتَيْنِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ غَرِيبٌ لَا نَعْرِفُهُ إِلَّا مِنْ حَدِيثِ رِشْدِينَ بْنِ كُرَيْبٍ.

قَالَ: وَسَأَلْتُ [أَبَا مُحَمَّدٍ] عَبْدَ اللهِ بْنَ عَبْدِ الرَّحْمٰنِ عَنْ رِشْدِينَ بنِ كُرَيْبٍ قُلْتُ: هُوَ أَقْوَى أَمْ مُحَمَّدُ بْنُ كُرَيْبٍ؟ قَالَ: ما أَقْرَبَهُمَا ورِشْدِينُ بْنُ كُرَيْبٍ أَرْجَحُهُمَا عِنْدِي، قَالَ: وَسَأَلْتُ مُحَمَّدَ بْنَ إِسْمَاعِيلَ عَنْ هٰذَا، فَقَالَ: مُحَمَّدُ بْنُ كُرَيْبٍ أَرْجَحُ مِنْ رِشْدِينَ بْنِ كُرَيْبٍ. والقَوْلُ عِنْدِي مَا قَالَ أَبُو مُحَمَّدٍ عَبْدُ اللهِ بْنُ عَبْدِ الرَّحْمٰنِ: رِشْدِينُ بْنُ كُرَيْبٍ أَرْجَحُ وأَكْبَرُ، وقَدْ أَدْرَكَ ابْنَ عَبَّاسٍ ورَآهُ وهُما أَخَوَانِ وعِنْدَهُمَا مَنَاكِيرُ.

تخريج: **[إسناده ضعيف]** وأخرجه ابن ماجه، الأشربة، باب الشرب بثلاثة أنفاس، ح:٣٤١٧ من حديث رشدين بن كريب به وهو ضعيف كما في التقريب وغيره.

Comments:

If one has the intention to drink to one's fill, let him drink with three breaths. In case he wishes to drink just a little, he may do it with one breath or two.

[1] That is Ad-Dārimī.

Chapter 15. What Has Been Related About It Being Disliked To Blow Into The Drink

(المعجم ١٥) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ النَّفْخِ فِي الشَّرَابِ (التحفة ١٥)

1887. Abū Sa'eed Al-Khudrī narrated that the Prophet ﷺ prohibited blowing into the drink. A man said: "What about if one sees something floating in the vessel?" He said: "Spill it out (removing that)." He said: "I can not drink in one breath." He said: "Then remove the cup away from your mouth." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٨٧ - حَدَّثَنَا عَلِيُّ بْنُ خَشْرَمٍ: حَدَّثَنَا عِيسَى بْنُ يُونسَ عَنْ مالِكِ بْنِ أَنَسٍ، عَنْ أَيُّوبَ - وَهُوَ ابْنُ حَبِيبٍ - أَنَّهُ سَمِعَ أَبَا الْمُثَنَّى الجُهَنِيَّ يَذْكُرُ عَنْ أَبِي سَعِيدٍ الْخدْرِيِّ: أَنَّ النَّبِيَّ ﷺ نَهَى عَنِ النَّفْخِ فِي الشَّرَابِ، فَقَالَ رَجُلٌ: القَذَاةُ أَرَاهَا فِي الْإِناءِ؟ فَقَالَ: «أَهْرِقْهَا» فَقَالَ: فَإِنِّي لَا أَرْوَى مِنْ نَفَسٍ وَاحِدٍ؟ قَالَ: «فَأَبِنِ القَدَحَ إِذَنْ عَنْ فِيكَ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: [إسناده صحيح] وأخرجه أحمد:٣/٢٦، ٣٢ من حديث مالك به وهو في الموطأ:٢/ ٩٢٥.

Comments:

If a straw etc., strays into the drinking water then, instead of blowing it away, we should remove it through some other method i.e., through spilling out some of the water or by means of a spoon etc. If one has a desire to drink to one's fill and needs to breathe while doing so, let him draw the cup away from his mouth and breathe outside.

1888. Ibn 'Abbās narrated: "The Messenger of Allāh ﷺ prohibited breathing in the vessel, or blowing into it." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٨٨ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ [ابْنُ عُيَيْنَةَ] عَنْ عَبْدِ الْكَرِيمِ الْجَزَرِيِّ، عَنْ عِكْرِمَةَ، عَنِ ابْنِ عَبَّاسٍ: أَنَّ النَّبِيَّ ﷺ نَهَى أَنْ يُتَنَفَّسَ فِي الْإِنَاءِ أَوْ يُنْفَخَ فِيهِ.

[قَالَ أَبُو عِيسَى:] هٰذَا حديثٌ حسنٌ صحيحٌ.

تخريج: [إسناده صحيح] وأخرجه أبو داود، الأشربة، باب: في النفخ في الشراب والتنفس فيه، ح:٣٧٢٨ وابن ماجه، ح:٣٤٢٩ والحميدي، ح:٥٢٦ من حديث سفيان بن عيينة به.

Comments:

It is not proper to breathe into the vessel or blow into it while drinking from it, be it for taking a fresh breath, or removing some straw from it or to cool a hot drink.

Chapter 16. What Has Been Related About It Being Disliked To Breath Into The Vessel

(المعجم ١٦) - بَابُ مَا جَاءَ فِي كَرَاهِيَةِ التَّنَفُّسِ فِي الْإِنَاءِ (التحفة ١٦)

1889. 'Abdullāh bin Abī Qatādah narrated from his father, that the Messenger of Allāh ﷺ said: "When one of you drinks, then do not breathe into the vessel." (*Ṣaḥīḥ*)

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٨٩ - حَدَّثَنَا إِسْحَاقُ بْنُ مَنْصُورٍ: حَدَّثَنَا عَبْدُ الصَّمَدِ بْنُ عَبْدِ الْوَارِثِ: حَدَّثَنَا هِشَامٌ الدَّسْتَوَائِيُّ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ، عَنْ عَبْدِ اللهِ ابْنِ أَبِي قَتَادَةَ، عَنْ أَبِيهِ: أَنَّ رَسُولَ اللهِ ﷺ قَالَ: «إِذا شَرِبَ أَحَدُكُمْ فَلَا يَتَنَفَّسْ فِي الْإِنَاءِ».

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الوضوء، باب النهي عن الاستنجاء باليمين، ح:١٥٣ ومسلم، ح:٢٦٧ من حديث هشام الدستوائي به.

Comments:

It is not only bad manners but also an unhealthy practice to breathe into the vessel while drinking. (*Fatḥ Al-Bārī*, Prohibition of breathing into the vessel: 10).

Chapter 17. What Has Been Related About [The Prohibition Of] Bending The Mouths Of Water-Skins

(المعجم ١٧) - بَابُ مَا جَاءَ فِي [النَّهْيِ عَنِ] اخْتِنَاثِ الْأَسْقِيَةِ (التحفة ١٧)

1890. 'Ubaidullāh bin 'Abdullāh narrated a report (of the Messenger of Allāh ﷺ) from Abū Sa'eed, that he prohibited bending the mouths of the water-skins. (*Ṣaḥīḥ*)

[He said:] There are narrations on this topic from Jābir, Ibn 'Abbās, and Abū Hurairah.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٩٠ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا سُفْيَانُ عَنِ الزُّهْرِيِّ، عَنْ عُبَيْدِ اللهِ بْنِ عَبْدِ اللهِ، عَنْ أَبِي سَعِيدٍ رِوَايَةً: أَنَّهُ نَهَى عَنِ اخْتِنَاثِ الأَسْقِيَةِ.

[قَالَ:] وفِي الْبَابِ عَنْ جابِرٍ وابْنِ عَبَّاسٍ وأَبِي هُرَيْرَةَ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه مسلم، الأشربة، باب آداب الطعام والشراب وأحكامهما، ح:٢٠٢٣ من حديث سفيان بن عيينة والبخاري، ح:٥٦٢٥ من حديث الزهري به * وفي الباب عن جابر [ابن أبي شيبة:٨/ ١٩، ح:٢٤١١٦] وابن عباس [ابن ماجه، ح:٣٤١٩] وأبي هريرة [البخاري، ح:٥٦٢٧ والحاكم:٤/ ١٤٠].

Comments:

A water-skin or any other container with a closed mouth could contain a harmful object in it. It has, therefore, been prohibited to drink from it without looking at what one is drinking.

Chapter 18. What Has Been Related Permitting That

(المعجم ١٨) - بَابُ مَا جَاءَ فِي الرُّخْصَةِ فِي ذَلِكَ (التحفة ١٨)

1891. 'Eīsā bin 'Abdullāh bin Unais narrated from his father who said: "I saw the Prophet ﷺ standing at a hanging water-skin, so he bent it, then drank from it." (*Ḍa'īf*)

[He said:] There is something on this topic from Umm Salamah.

[Abū 'Eīsā said:] The chain for this *Hadīth* is not *Ṣaḥīḥ*. 'Abdullāh bin 'Umar Al-'Umarī (a narrator in the chain) was graded weak due to his memory, and I do not know if he heard from 'Eīsā or not.

١٨٩١ - حَدَّثَنَا يَحْيَى بْنُ مُوسَى: حَدَّثَنَا عَبْدُ الرَّزَّاقِ: أَخْبَرَنَا عَبْدُ اللهِ بْنُ عُمَرَ عَنْ عِيسَى بْنِ عَبْدِ اللهِ بْنِ أُنَيْسٍ، عَنْ أَبِيهِ قَالَ: رَأَيْتُ النَّبِيَّ ﷺ قَامَ إِلَى قِرْبَةٍ مُعَلَّقَةٍ فَخَنَثَهَا ثُمَّ شَرِبَ مِنْ فِيهَا.

[قَالَ:] وفِي الْبَابِ عَنْ أُمِّ سُلَيْمٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ لَيْسَ إِسْنَادُهُ بِصَحِيحٍ. وعَبْدُ اللهِ بْنُ عُمَرَ الْعُمَرِيُّ يُضَعَّفُ مِنْ قِبَلِ حِفْظِهِ ولَا أَدْرِي سَمِعَ مِنْ عِيسَى أَمْ لَا؟.

تخريج: [**إسناده ضعيف**] وأخرجه أبو داود، الأشربة، باب: في اختناث الأسقية، ح:٣٧٢١ من حديث عبدالله بن عمر العمري به وهو ضعيف في غير نافع، وعيسى بن عبدالله مستور لم يوثقه غير ابن حبان * وفي الباب عن أم سليم [أحمد:٦/٣٧٦، ٤٣١ والدارمي، ح:٢١٣٠].

1892. 'Abdur-Raḥmān bin Abī 'Amrah narrated from his grandmother Kabshah who said: "The Messenger of Allāh ﷺ entered upon me. He drank from a hanging water-skin while standing. So I went to its mouth and cut it off."[1] (*Hasan*)

[Abū 'Eīsā said:] This *Hadīth* is *Ḥasan Ṣaḥīḥ Gharīb*. Yazīd bin

١٨٩٢ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ عَنْ يَزِيدَ بْنِ يَزِيدَ بْنِ جَابِرٍ، عَنْ عَبْدِ الرَّحْمٰنِ بْنِ أَبِي عَمْرَةَ، عَنْ جَدَّتِهِ كَبْشَةَ قَالَتْ: دَخَلَ عَلَيَّ رَسُولُ اللهِ ﷺ فَشَرِبَ مِنْ فِي قِرْبَةٍ مُعَلَّقَةٍ قَائِمًا فَقُمْتُ إِلَى فِيهَا فَقَطَعْتُهُ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ غَرِيبٌ. ويَزِيدُ بْنُ يَزِيدَ بْنِ جابِرٍ هُوَ

[1] This she did because the Prophet ﷺ had drunk from it, and she wanted to keep it. See *Tuḥfat Al-Aḥwadhī*.

Yazīd bin Jābir is the brother of 'Abdur-Raḥmān bin Yazīd bin Jābir. He died earlier than him.

أَخُو عَبْدِ الرَّحْمٰنِ بْنِ يَزِيدَ بْنِ جابِرٍ، وهُوَ أَقْدَمُ مِنْهُ مَوْتًا.

تخريج: [إسناده حسن] وأخرجه ابن ماجه، الأشربة، باب الشرب قائمًا، ح:٣٤٢٣ والحميدي، ح:٣٥٥ من حديث سفيان بن عيينة به.

Comments:

The water-skin was hanging, and there was no vessel around, and obviously the Prophet ﷺ could not hold water in the palm of his hand and drink. It was under this circumstance that he ﷺ had to drink directly from the mouth of the water-skin.

Chapter 19. What Has Been Related About Those On The Right Have More Right To The Drink

(المعجم ١٩) - بَابُ مَا جَاءَ: أَنَّ الأَيْمَنِينَ أَحَقُّ بالشُّرْبِ (التحفة ١٩)

1893. Anas bin Mālik narrated: "The Messenger of Allāh ﷺ was brought some milk which was mixed with some water. On his right was a Bedouin and on his left was Abū Bakr. So he drank, then he gave it to the Bedouin and said: 'The right, then the right.'" (***Saḥīḥ***)

[He said:] There are narrations on this topic from Ibn 'Abbās, Sahl bin Sa'd, Ibn 'Umar, and 'Abdullāh bin Busr.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٩٣ - حَدَّثَنَا الْأَنْصَارِيُّ: حَدَّثَنَا مَعْنٌ: حَدَّثَنَا مالِكٌ عَنِ ابْنِ شِهَابٍ؛ ح: وحَدَّثَنَا قُتَيْبَةُ عَنْ مالِكٍ، عَنِ ابْنِ شِهَابٍ، عَنْ أَنَسِ ابْنِ مالِكٍ: أَنَّ رَسُولَ اللهِ ﷺ أُتِيَ بِلَبَنٍ قَدْ شِيبَ بِمَاءٍ وَعَنْ يَمِينِهِ أَعْرَابِيٌّ وَعَنْ يَسَارِهِ أَبُو بَكْرٍ فَشَرِبَ ثُمَّ أَعْطَى الْأَعْرَابِيَّ وقَالَ: «الْأَيْمَنُ فَالْأَيْمَنُ».

[قَالَ:] وفِي الْبَابِ عَنِ ابْنِ عَبَّاسٍ وسَهْلِ ابْنِ سَعْدٍ وابْنِ عُمَرَ وعَبْدِ اللهِ بْنِ بُسْرٍ.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: متفق عليه، وأخرجه البخاري، الأشربة، باب الأيمن فالأيمن في الشرب، ح:٥٦١٩ ومسلم، ح:٢٠٢٩ من حديث مالك به وهو في الموطأ: ٢/٩٢٦ ❋ وفي الباب عن ابن عباس [ابن ماجه، ح:٣٤٢٦] وسهل بن سعد [البخاري، ح:٢٣٥١ ومسلم، ح:٢٠٣٠] وابن عمر [أبوالشيخ في أخلاق النبي ﷺ، ص:٢٢٤] وعبدالله بن بسر [يأتي:٣٥٧٦].

Comments:

If the cup bearer finds no division of right and left among the people but finds them sitting reverentially before a prominent personality, then he starts offering the drink to the person in front. In case the drink has been brought especially for the prominent person, it shall be offered exclusively to him. If, however, it is meant to be given to others as well, then the cup bearer shall start from his right side.

Chapter 20. What Has Been Related About The One Providing Water For People Is The Last Of Them To Drink

(المعجم ٢٠) - بَابُ مَا جَاءَ أَنَّ سَاقِيَ الْقَوْمِ آخِرُهُمْ شُرْبًا (التحفة ٢٠)

1894. Abū Qatādah narrated that the Prophet ﷺ said: "The one providing water for people is the last of them to drink." (***Ṣaḥīḥ***)

[He said:] There is something on this topic from Ibn Abī Awfā.

[Abū 'Eīsā said:] This *Ḥadīth* is *Ḥasan Ṣaḥīḥ*.

١٨٩٤ - حَدَّثَنَا قُتَيْبَةُ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ ثَابِتٍ الْبُنَانِيِّ، عَنْ عَبْدِ اللهِ بْنِ رَبَاحٍ، عَنْ أَبِي قَتَادَةَ عَنِ النَّبِيِّ ﷺ قَالَ: «سَاقِي الْقَوْمِ آخِرُهُمْ شُرْبًا» [قَالَ:] وفِي الْبَابِ عَنِ ابْنِ أَبِي أَوْفَى.

[قَالَ أَبُو عِيسَى:] هٰذَا حَدِيثٌ حَسَنٌ صَحِيحٌ.

تخريج: وأخرجه مسلم، المساجد، باب قضاء الصلاة الفائتة واستحباب تعجيل قضائها، ح:٦٨١ من حديث ثابت به * وفي الباب عن ابن أبي أوفى [أبو داود، ح:٣٧٢٥].

Comments:

Islamic etiquette is built on the principle that if a person is designated to provide some sort of service or relief to the people, let him first and foremost serve the people and avoid placing self-interest above that of others.

Chapter 21. What Has Been Related About Which Drink Was The Most Beloved To The Messenger Of Allāh ﷺ

(المعجم ٢١) - بَابُ مَا جَاءَ أَيُّ الشَّرَابِ كَانَ أَحَبَّ إِلَى رَسُولِ اللهِ ﷺ (التحفة ٢١)

1895. 'Āishah narrated: "The drink most beloved to the Messenger of Allāh ﷺ was the sweet, cool drink." (***Ḍa'īf***)

[Abū 'Eīsā said:] This was reported similarly by more than one narrator from Ibn 'Uyainah from Ma'mar, from Az-Zuhrī, from 'Urwah from 'Āishah. What is correct is what was reported by Az-Zuhrī from the Prophet ﷺ in *Mursal* form.

١٨٩٥ - حَدَّثَنَا ابْنُ أَبِي عُمَرَ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عائِشَةَ قَالَتْ: كَانَ أَحَبَّ الشَّرَابِ إِلَى رَسُولِ اللهِ ﷺ الْحُلْوُ الْبَارِدُ.

[قَالَ أَبُو عِيسَى:] هٰكَذَا رَوَاهُ غَيْرُ واحِدٍ عَنِ ابْنِ عُيَيْنَةَ مِثْلَ هٰذَا عَنْ مَعْمَرٍ، عَنِ الزُّهْرِيِّ، عَنْ عُرْوَةَ، عَنْ عائِشَةَ. والصَّحِيحُ ما رَوَى الزُّهْرِيُّ عَنِ النَّبِيِّ ﷺ مُرْسَلًا.

تخريج: [إسناده ضعيف] وأخرجه النسائي في الكبرى، ح:٦٨٤٤ من حديث سفيان بن عيينة به وصرح بالسماع عند الحميدي، ح:٢٥٨ * الزهري مدلس وعنعن وللحديث شاهد ضعيف عند أحمد: ١/ ٣٣٨.

Comments:

Almost every person has a natural inclination for cold and sweet drink. A person's liking for a certain item of food or drink, which is also consistent with human nature, is not against the principle of piety and freedom from distaste for worldly pleasures.

1896. Az-Zuhrī narrated: "The Prophet ﷺ was asked: 'Which drink is the best?' He said: 'The sweet, cool drink.'" (***Ḍa'īf***)

[Abū 'Eīsā said:] This is how 'Abdur-Razzāq reported it from Ma'mar, from Az-Zuhrī, from the Prophet ﷺ in *Mursal* form. This is more correct than the narration of Ibn 'Uyainah (no. 1895).

١٨٩٦ - حَدَّثَنَا أَحْمَدُ بْنُ مُحَمَّدٍ: حَدَّثَنَا عَبْدُ اللهِ بْنُ الْمُبَارَكِ: حَدَّثَنَا مَعْمَرٌ وَيُونُسُ عَنِ الزُّهْرِيِّ: أَنَّ النَّبِيَّ ﷺ سُئِلَ: أَيُّ الشَّرَابِ أَطْيَبُ؟ قَالَ: «الْحُلْوُ الْبَارِدُ».

[**قَالَ أَبُو عِيسَى**:] وهٰكَذَا رَوَى عَبْدُ الرَّزَّاقِ عَنْ مَعْمَرٍ، عَنِ الزُّهريِّ عَنِ النَّبِيِّ ﷺ مُرْسَلًا. وهٰذَا أَصَحُّ مِنْ حَدِيثِ ابْنِ عُيَيْنَةَ.

تخريج: [**إسناده ضعيف لإرساله**] * حديث عبدالرزاق في المصنف: ١٠/٤٢٦، ح: ١٩٥٨٣.

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